

Attachment to CP 600-24 – Terms and Conditions

TERMS AND CONDITIONS FOR CITY COUNCIL RECOGNITION OF
{NAME OF COMMUNITY PLANNING GROUP}
AS AN INDEPENDENT COMMUNITY PLANNING GROUP
PER CITY COUNCIL POLICY 600-24

Introduction and Background

With the Terms and Conditions established herein, the City desires to establish minimum standards the {NAME THE CPG} (the CPG) will adhere to and designated services the CPG will provide in order to obtain and maintain official recognition by the City pursuant to Council Policy 600-24 (Policy 600-24). CPGs are independent organizations voluntarily created and operated by community members who are not City employees, City agents, or City representatives. CPGs are not City-controlled or managed organizations. The City does not direct or recommend the election, appointment, or removal of CPG voting members, or delegate authority to CPGs to act on its behalf.

The CPG, in adopting these Terms and Conditions, commits to meeting these minimum standards and to operating in a manner that abides by and conforms with the Brown Act, is transparent to the public, is accessible to and inclusive of all community members, and reflects the diversity of the communities where they operate. The CPG acknowledges that meeting the standards of this document is necessary to be formally recognized, and continue to be recognized, by the City Council (Council) as a CPG in the City of San Diego. The CPG acknowledges that the City can revoke recognition of any CPG if the City, in its sole discretion, determines these standards are not being met.

The CPG will separately and independently maintain any legally required corporate documents, including articles of incorporation and corporate bylaws, or any other legally required documents related to the CPG's founding, operation, or organization.

The CPG will submit the documents listed in Exhibit A of these Terms and Conditions with its application for Council recognition and maintain these documents in accordance with sections 2.5 and 7.2 herein.

In consideration of Policy 600-24 and the Terms and Conditions established herein, the CPG hereby agrees to abide by the following:

1. Name and Geographical Boundaries

The name of this City recognized CPG shall be {NAME CPG}.

The community planning boundaries of this CPG are the boundaries of the {COMMUNITY NAME} Community, as shown in Exhibit B.

2. Responsibilities

2.1 Collaboration with City Staff

As a recognized independent body, the CPG may work with City staff throughout the City's planning process when requested by the City, including during the formation of long-range community goals, objectives, and proposals or revisions for inclusion in a General or Community Plan.

2.2 Advisory CPG Review

The CPG may make advisory recommendations to the City and other governmental agencies on land use matters within the CPG's geographical boundaries or related matters associated with implementation of its community plan as shown in Exhibit B, including the preparation of, adoption of, implementation of, or amendment to, the General Plan or a land use plan when a plan relates to its boundaries.

The CPG may, upon City request, make recommendations, or participate in, additional efforts such as identifying CIP infrastructure needs or additional City matters.

The CPG recognizes that City staff and development project applicants are not required by the City to present their project or application before the CPG although the City encourages applicants to conduct robust engagement with all CPGs, the community, and project neighbors.

2.3 Timely Submittal of CPG Recommendations to the City

In order to be considered as part of the City's development review process, CPG project review recommendations, if any, must be submitted to the City within seven calendar days of the CPG taking action.

In addition, the CPG shall submit its recommendation and any conditions to the project proposed by the CPG, using Bulletin 620 Distribution Form, or reasonable facsimile.

The CPG will follow a uniform mandatory process for recording CPG project review recommendations through the use of an annual report that includes all project recommendations which shall be part of the CPG's official records.

2.4 Adherence to Ralph M. Brown Act

The CPG must comply with California's Open Meeting Law, the Ralph M. Brown Act, set forth at California Government Code sections 54950 through 54963 (Brown Act), by conducting meetings that are open to the public, properly noticed, and in compliance with each of the Brown Act provisions. Failure of the CPG to conduct meetings in compliance with the Brown Act provisions shall constitute sufficient reason for the CPG to lose its Council recognition and may subject the CPG and CPG voting members to a loss of indemnification by the City.

2.5 Maintenance of Open Records

The CPG shall maintain its official records, including its rosters, annual reports, meeting agendas, applications to serve as voting members, evidence of completion of annual trainings,

and meeting minutes, for a minimum of five years (either on its website, in electronic files, or in hard copies) from the date each record is created, and will make all official records available to the City and to any member of the public upon request.

Written applications submitted to the CPG by individuals wishing to serve as voting members, and records of election results, are considered official records and will be maintained by the CPG in accordance with Policy 600-24. The CPG will submit to the City the rosters of CPG voting members by May 1st of each year and will also submit to the City any changes to rosters as a result of CPG elections.

2.6 Independent Entity

The CPG is an independent entity from the City and must be able to operate as such. The City may provide assistance to CPGs at the discretion of the City Manager and subject to the availability of City resources. In addition, CPGs may be allocated funds by the City when such funding is approved by the City Council.

3. Community Participation and Representation

3.1 Membership

The CPG will ensure that voting members of recognized CPGs, to the greatest extent possible, represent the entire community and community interests, including homeowners, renters, individuals with and without school age children, and diverse age groups.

The CPG and its voting members should routinely seek robust community participation in the CPG planning and implementation process to serve the best long-term interest of the community at large. The CPG shall submit a detailed written Community Participation and Representation Plan to the City Council along with its application for recognition (see Exhibit A).

3.2 Community Outreach

The CPG and its voting members shall routinely seek community participation in the CPG planning and implementation process to serve the best long-term interest of the community at large.

3.3 Collection of Membership Data

To measure community representation, the CPG shall gather demographic data of existing and new CPG voting members at the time of elections or other regular periods to measure inclusion and diversity on the CPG. This data should be submitted to the City along with the annual rosters required by Section 2.5. Participation in this type of survey will be voluntary and will be conducted in a manner to ensure the privacy of responses and respondents.

4. CPG Composition

4.1 Number of Voting Members

The CPG will have no fewer than 10 and no more than 20 voting members, respectively,

representing the various community interests set forth in these Terms and Conditions. The Council may recognize a CPG with more than 20 voting members if the larger membership is necessary to give better representation to a community.

4.2 Voting Member Eligibility

The CPG will ensure that voting members meet the following minimum qualifications throughout their entire term of service:

4.2.1 Minimum Age

Voting members will be a minimum of 18 years of age unless the CPG has an appointed youth representative.

4.2.2 Minimum Attendance Requirements

The CPG shall take attendance to ensure that each voting member attends at least two-thirds of the CPG's regularly scheduled meetings in any 12-month period throughout their term as a voting member. Failure to meet minimum attendance shall be grounds for disqualification of the voting member. No attendance requirements for voting member attendance prior to their election or appointment as a voting member are allowed.

4.3 Community Representation

The CPG will ensure that voting members be affiliated with the community as either a: (1) property owner, who is an individual identified as the sole or partial owner of record, or their employee, of a real property (either developed or undeveloped), within the community planning area; (2) resident, who is an individual whose primary address of residence is an address in the community planning area; or (3) local business person, who is a local business or non-profit owner, operator, or designee at a non-residential real property address in the community planning area as evidenced by a business tax certificate or other official document.

4.3.1 Appointed Seats

To ensure representation of unique stakeholder interests in the community planning area, the CPG may create appointed non-voting seats. These appointed non-voting seats must be described in the CPG bylaws.

4.4 Voting Member Term Limits

The CPG shall establish term limits for its voting members to ensure that the membership is not dominated over time by individual voting members or groups within the community. These term limits will conform with the following guidelines:

4.4.1 Maximum Time of Service

CPG voting members will not serve their service time for more than eight consecutive years if elected to two- or four-year terms, or nine consecutive years if voting members are elected to three-year terms. CPG voting members who accumulate this maximum service time can be eligible to serve again after a two-year break in service.

4.4.2 Waivers of Maximum Time of Service

The CPG may develop procedures for waiving the maximum time of service by vote of its voting members of the CPG cannot find sufficient new voting members to fill vacant open seats after a good faith effort to do so. Should a CPG choose to exercise this waiver, it will use the following guidelines:

- (1) Waivers of Maximum Time of Service shall not be granted unless necessary to ensure there are at least 10 voting members (See Section 4.1).
- (2) Waiver of Maximum Time of Service to ensure there are at least 10 voting members shall be ratified by at least a two-thirds majority of the votes cast by eligible community members participating in the regular election; and
- (3) the term of a voting member elected by a two-thirds vote serving beyond the Maximum Time of Service should count as time served beyond the required break in service as required by this section.

5. Open and Public Elections

5.1. Equal Participation

The CPG shall develop election procedures to encourage equal participation by all members of the public of a community, including term limits which voting members of a recognized CPG can serve.

All members of the public affiliated with the community within the geographical boundary of the CPG will be allowed to vote in CPG elections, so long as they meet minimum conditions for eligibility per Section 4.2 of these Terms and Conditions and comply with the following:

- Only one elected CPG voting member per business tax certificate
- Only one elected CPG voting member per property tax billing

No additional qualifications, such as attendance requirements, will disqualify someone from voting, and no voting requirement will be stricter than allowed by the California Elections Code or Section 5.1.1.

5.1.1 Voter Identification for Resident Community Members

Consistent with state and federal law, proof of residency or identity, should consist of presenting an original or copy of any of the documents described below in either paragraph (1) or (2). These requirements should be construed liberally by CPGs and any doubt resolved in favor of allowing a community member to vote in the election.

(1) Current and valid photo identification provided by a third party in the ordinary course of business that includes the name and photograph of the individual presenting it. Examples of photo identification include, but are not limited to, the following documents: (A) driver's license or identification card of any state; (B) passport; (C) employee identification card; (D) identification card provided by a commercial establishment; (E) credit or debit card; (F) military identification card; (G) student identification card; (H) health club identification card; (I) insurance plan identification card; or (J) public housing identification card.

(2) Any of the following documents, provided that the document includes the name and address of the individual presenting it, and is dated since the date of the last election, unless the document is intended to be of a permanent nature such as a pardon or discharge, including: (A) utility bill; (B) bank statement; (C) government check; (D) government paycheck; (E) document issued by a governmental agency; (F) sample ballot or other official elections document issued by a governmental, agency dated for the election in which the individual is providing it as proof, of residency or identity; (G) voter notification card issued by a governmental agency; (H) public housing identification card issued by a governmental agency; (I) lease or rental statement or agreement issued by a governmental agency; (J) student identification card issued by a governmental agency; (K) tuition statement or bill issued by a governmental agency; (L) insurance plan card or drug discount card issued by a governmental agency; (M) discharge certificates, pardons, or other official documents issued to the individual by a governmental agency in connection with the resolution of a criminal case, indictment, sentence, or other matter; (N) public transportation authority senior citizen and disabled discount cards issued by a governmental agency; (O) identification documents issued by governmental disability agencies; (P) identification documents issued by government homeless shelters and other government temporary or transitional facilities; (Q) drug prescription issued by a government doctor or other governmental health care provider; (R) property tax statement issued by a governmental agency; (S) vehicle registration issued by a governmental agency; or (T) vehicle certificate of ownership issued by a governmental agency.

5.1.2 Voter Identification for Community Business Owners

Business Owners within the community should present an original or copy of a Business Tax Certificate or equivalent document showing a business address within the CPG boundaries. These requirements should be construed liberally by CPGs and any doubt resolved in favor of allowing a community business owner to vote in the election.

5.1.3 Voter Identification for Community Non-Profits

Employees of non-profits within the community should present an original or copy of their founding documents or a related document showing an associated address within the CPG boundaries. These requirements should be construed liberally by CPGs and any doubt resolved in favor of allowing a community member to vote in the election.

5.1.4 Voter Identification for Community Non-Resident Property Owners

Non-residents who own property within the community should present documents similar to those described in 5.1.1 above, however at least one of these documents should show the address of the property in the community owned by the non-resident and be sufficient to prove ownership. These requirements should be construed liberally by CPGs and any doubt resolved in favor of allowing a community member to vote in the election.

5.2 Transparency and Inclusion in Operations

The CPG will adopt provisions within its operating procedures that will govern the election or appointment of voting members of the CPG, their removal if necessary, and the process to fill vacancies, among other provisions. These provisions will provide for a fair and transparent process, intended to ensure broad outreach to the community, sufficient time for community

members to participate in elections, and the principles of inclusion and diversity in CPG operations.

CPG operating procedures should address the following:

- Cut-off date for candidates to submit nominations, which generally should be a CPG's regular February meeting before an annual March election
- Verification of candidate eligibility prior to printing a ballot
- Creation of a ballot with all candidates identified by name
- Handling of write-in candidates, if applicable, including how to verify eligibility for a write-in candidate's name on a submitted ballot
- Handling of a candidate's absence from a scheduled candidates' forum
- Location(s) of polls, including managing multiple concurrent polling locations, if allowed
- Management of the polls
- Verification of voter eligibility as referenced in Sections 5.1.1-5.1.4 in these Terms and Conditions
- Ballot construction & content
- Setting election date(s)
- Setting voting time(s)
- Mail-in ballot procedures, if applicable
- Closing the polls
- Counting the ballots, including when, by whom, and how to account for a candidate continuing beyond eight or nine consecutive years of service
- Clarifying whether a plurality voting system is being used, or if a majority is required for a seat to have a declared winner
- Ballot record keeping
- Tie-breaking procedures
- Election challenge procedures
- Timing of installation of newly elected voting members
- Maintaining confidentiality of secret written ballots
- Discouragement of electioneering (individuals actively trying to convince voters to vote for a specific candidate at the time and place of the election)
- Next steps if a seat remains unfilled due to lack of, or ineligibility of, a candidate, or as a result of a successful election challenge.

5.3 Election Timing

The CPG will endeavor to host its elections during the month of March each year to be consistent with other CPGs.

6. Conduct of Meetings

6.1 Professional Conduct

The CPG and its voting members will conduct themselves reasonably and professionally and refrain from disrupting the public process as set forth on the CPG's agenda.

6.2 Rules of Procedure

The CPG shall adopt rules of procedure for its meetings, such as Robert's Rules of Order or Rosenberg's Rules of Order, to provide a uniform means for the CPG to facilitate public meetings, conduct public business, and resolve disputes.

6.3 Transparency in Operations

The CPG will maintain transparency in its operating procedures as outlined herein and in Policy 600-24 to ensure open meetings with appropriate public notice to invite community participation in CPG meetings.

7. Additional CPG Responsibilities

7.1 Commitment to Non-Discriminatory Practices

The CPG, in conducting its responsibilities, will not discriminate against any person or persons by reason of race, color, sex, gender, age, creed, national origin, ancestry, sexual orientation, marital status, military or veteran status, genetic information, medical condition, or physical or mental disability.

7.2 Records Retention

The CPG will maintain its official records, including its rosters, annual reports, meeting agendas, and meeting minutes, for a minimum of five years (either on its website, in electronic files, or in hard copies) from the date each record is created, and will make all official records available to the City and to any member of the public upon request.

7.3 Ethical Standards

The CPG will outline and adopt ethical standards for all CPG voting members to guard against potential conflicts of interest and undue influence on any recommendation. These standards should include how CPG voting members can recuse themselves or abstain from voting on decisions when such a conflict exists. The CPG shall submit its adopted ethical standards to the City Council in its application for recognition by the City Council (see Exhibit A). The CPG should use the City's Ethics Ordinance as a guide in drafting its ethical standards. The following are examples of acceptable CPG ethical standards:

7.3.1 Example Standards of Conflicts of Interest

CPG voting members with a potential conflict of interest should recuse from participation in a recommendation if they have a direct economic interest. A direct economic interest includes, but is not limited to, investments in or positions with a business entity, interest in real property, source of income, source of gifts, and personal finances.

7.3.2 Example Exceptions to Conflicts of Interest

Exceptions to conflicts of interest may be granted by a CPG board to other CPG voting members who can show that the decision will not have an effect on their economic interest.

7.3.3 Abstentions for Potential Conflicts of Interest

CPG voting members may voluntarily choose to abstain from voting when that member has legitimate, non-economic, personal interests in the outcome that would, at minimum, give the appearance of impropriety, cast doubt on that member's ability to make a fair decision, or a where that voting member lacks sufficient information upon which to cast a vote. The CPG's record of the vote on the item will reflect an abstaining voting member in the vote and they are still counted in a community planning group quorum for that item, regardless of the point in time they declare their abstention.

7.3.4 Political Actions

Neither the CPG nor voting members in their capacity as such may use their title from or position on a CPG for political endorsements of individuals. The CPG may, however, upon majority vote, take a position on pending legislation that is within the CPG's purview.

7.3.5 Donations

Neither the CPG nor its voting members should accept donations on behalf of any individual running for office.

7.3.6 Equal Time for Candidates or Ballot Measures

The CPG will endeavor to grant equal time for candidates or ballot measures if docketed on the CPG agenda. Equal time does not apply to individuals speaking during non-agenda public comment.

7.4 Voting Member Training

The CPG will require all CPG voting members to complete the formal education program in-person or on-line offered by the City.

The CPG will require voting members to complete the training each year within 60 days of being initially elected or appointed to the CPG, and by no later than June 1st of each succeeding year for as long as the voting member is serving or re-elected.

Evidence of completion of annual training shall be part of the CPG's official records. Failure of voting members to complete the specified training each year will make the member ineligible to serve.

7.5 Collaboration with City Staff

CPG voting members will collaborate with the City on an ongoing basis and as requested by the City to increase its voting members' understanding of the role and responsibilities of the CPG.

8. CPG Rights and Liabilities

8.1 Indemnification

Pursuant to the policy of the City Council, the City will indemnify, and the City Attorney will defend, the CPG or its individual voting members, acting in their capacity to the City, under the

specified terms set forth in San Diego Ordinance No. O-19883 NS, adopted July 28, 2009, titled “An Ordinance Providing for Defense and Indemnification of Community Planning Groups,” (Ordinance), which may be amended from time to time. Defense and indemnification cover any claim or action of civil wrongdoing against the CPG or its duly elected or appointed voting members resulting from their obligations to advise and assist the City and its agencies with land use matters as specified herein, so long as their conduct was in conformance with these Terms and Conditions, all of the findings specified in the Ordinance can be made, and the rights to defense and indemnification are consistent with state law. The right to defense and indemnification do not apply to allegations of criminal wrongdoing, including alleged criminal violation of the Brown Act.

When the CPG or one of its individual voting members is found to be out of compliance with the provisions of Policy 600-24, or with these Terms and Conditions, they acknowledge they risk loss of defense and indemnification pursuant to the Ordinance, and any future amendments.

8.2 Violations and Remedies Related to Provisions Citing the Brown Act

Pursuant to provisions required by the Brown Act, including civil remedies (California Government Code sections 54960 through 54960.5) and criminal penalties (Government Code section 54959) for violation of the provisions, the CPG will ensure good faith, voluntary compliance with the Brown Act and proactively cure violations themselves, to prevent legal actions that would void CPG actions. Individual voting members of the recognized CPG, as well as the group as a whole, could be subject to civil remedies. Civil remedies may include relief to prevent or stop future or ongoing violations of the Brown Act, or to void past actions of the CPG, and may in some cases include payment of court costs and attorney’s fees.

Individual voting members of the CPG may also potentially face criminal misdemeanor charges for attending a meeting where action is taken in violation of the Brown Act, if the voting member intended to deprive the public of information to which the member knew or had reason to know the public was entitled. Action taken includes collective decisions or promises, and also includes tentative decisions. The CPG, or any of its individual voting members, may seek assistance, as well as training, from the City to better understand, implement, and comply with the Brown Act.

Any member of the public may refer alleged violations of the Brown Act by the CPG to appropriate law enforcement agencies, including the California Attorney General, San Diego County District Attorney, or San Diego City Attorney’s Criminal Division. The CPG, or any of its individual voting members, accused of criminal violations of the Brown Act does not have the right to legal protection or representation under these Terms and Conditions or San Diego Ordinance O-19883.

8.3 Violations of Membership Eligibility

Any CPG voting member who violates membership eligibility as defined in Section 4.2, may be removed by the remaining CPG voting members as outlined in Section 5.2

8.3.1 Removal of Ineligible Voting Members

A CPG shall include in their Operating Procedures a procedure for removal of voting members for failure to retain eligibility, which should provide affected voting members with fair notice and require ineligibility determinations to be supported by documentation.

8.4 Violations and Remedies

If the CPG violates these Terms and Conditions, it may forfeit its status as a recognized CPG and lose its right to indemnification and defense by the City. A CPG voting member and the CPG itself risks loss of defense and indemnification pursuant to current San Diego ordinances and any future amendments.

In the case of an alleged violation of these Terms and Conditions by a CPG voting member, the CPG will conduct an investigation consistent with Policy 600-24.

In the case of an alleged violation of Policy 600-24, the violation will be forwarded in writing to the City for review by the Mayor or their Designee. The CPG will respond to the City in a dialogue to determine the validity of the complaint and to seek resolution of the issue or dispute.

The CPG acknowledges that if the Mayor or their Designee is unable to resolve a dispute or determines that there has been a violation, the Mayor or their Designee may seek to resolve the dispute or violation informally, with the cooperation of the CPG, or may recommend to the City Council that the CPG's recognition be revoked.

The CPG acknowledges that if the City Council determines through a recommendation from the Mayor or their Designee that a CPG has violated their Terms and Conditions or Policy 600-24 and the CPG has failed to take corrective action deemed adequate in the sole discretion of the City Council, the City Council may revoke the CPG's recognition under this Policy. The City Council may also prescribe conditions under which official recognition may be reinstated.

8.5 Disciplinary Actions of Individual Voting Members in Violation of Terms and Conditions

The CPG acknowledges that any of its voting members found to be in violation of these Terms and Conditions shall only be disciplined or removed by the CPG at a scheduled CPG meeting. This discipline or removal will be advertised on the agenda as an action item and the investigation or complaint will be reported to the City within 60 days of the allegation so as to ensure a fair and public process.

8.6 Potential Conflicts of Interest

CPG voting members found to have a conflict of interest who did not recuse from a vote may be subject to disciplinary action by the officers of the CPG, which may include expulsion from the board. The CPG will report in writing instances of disciplinary action to the City within 60 days of any allegation.

8.7 Violations and Remedies for Quorum and Attendance Requirements

If the CPG is unable to meet quorum and attendance requirements for three consecutive months, then City may place the CPG in a temporary inactive status, to allow the CPG to work through

its membership issues to return to active status. If the CPG remains unable to meet quorum and attendance requirements for six consecutive months, then the Mayor or their Designee may recommend to the City Council that the CPG's recognition be revoked.

8.8 Violations of City Requests for Input

The CPG acknowledges that a consistent failure to respond to the City's request for input on the preparation of, adoption of, implementation of, or amendment to the General Plan or a community, precise, or specific plans may result in revocation of recognition as referenced in Policy 600-24. Consistent failure to provide input on private development applications or public infrastructure projects may result in revocation of recognition. Further, that such a determination resulting in the forfeiture of rights to represent its community for these purposes will be made by the Council upon the recommendation of the Mayor or his/her Designee.

9. Collective Action of the CPG

The official positions and opinions of the CPG will not be established or determined by any organization other than the recognized CPG, nor by any individual voting member or subcommittee of the CPG.

10. Term of the Terms and Conditions

These Terms and Conditions will be effective in perpetuity of the life of the CPG unless recognition of the CPG is revoked by the City as described in Section 8.4 or the Terms and Conditions are updated to be consistent with Policy 600-24 as it may be amended.

Attachment:

EXHIBIT A: REQUIRED COMMUNITY PLANNING GROUP DOCUMENTS FOR AN APPLICATION FOR CITY COUNCIL RECOGNITION