

City of San Diego COUNCIL POLICY

SUBJECT: CITY COUNCIL RECOGNITION OF INDEPENDENT COMMUNITY
PLANNING GROUPS

POLICY NO.: 600-24

EFFECTIVE DATE: _____, 2021

BACKGROUND:

The City Council (Council) recognizes the importance of receiving community input into land use decisions. This Policy sets forth the process by which the Council exercises its sole and exclusive discretion to formally recognize “Community Planning Groups,” or CPGs, as independent advisory bodies to the City of San Diego (City), and its ability to revoke recognition of any CPG.

CPGs are independent organizations voluntarily created and operated by community members who are not City employees, City agents, or City representatives. They are not City-controlled or managed organizations. The City does not direct or recommend the election, appointment, or removal of voting members to CPGs, or delegate authority to CPGs to act on its behalf.

PURPOSE:

The Council intends to create a process to formally recognize CPGs by establishing the requirements of recognition that each CPG must follow to be formally recognized. These requirements are intended to ensure that CPGs operate in a manner that is transparent to the public, accessible to and inclusive of all community members, and reflects the diversity of the communities where they operate. The Council may recognize by resolution a CPG that meets all requirements of this Policy and has agreed to the requirements of the related Terms and Conditions document.

A recognized CPG may make advisory recommendations to the City and other governmental agencies on land use matters within the CPG’s planning area boundaries, 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. Recognized CPGs may also advise on associated matters as described in this Policy, and on other land use matters as requested by the City or other governmental agencies. However, the City is not bound to follow the advice or recommendations of the CPGs.

It is the policy of the Council, on behalf of the City, that City representatives consistently inform and educate project applicants of the role of CPGs in the City’s project review process.

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POLICY:

I. DETERMINATION OF BOUNDARIES AND RECOGNITION OF CPGS.

When the Council recognizes a CPG, it will adopt a resolution setting forth the CPG's jurisdiction based on the boundary of the applicable adopted community plan. In some cases, the Council may determine that a boundary other than that of an adopted plan is the appropriate boundary for a CPG, and may identify an area either smaller than, or more encompassing than, an adopted community plan.

The Council may, by resolution, change the boundaries of a CPG. In considering a change, the Council will consider whether a community plan amendment or update is being processed and may change the community plan boundaries.

The Council may, by resolution, revoke recognition of a CPG if the CPG does not comply with the requirements of this Policy. The Council may subsequently recognize a successor CPG, or re-instate recognition of the previous CPG, by resolution.

II. OPERATIONAL FRAMEWORK FOR RECOGNIZED CPGs.

To be recognized, CPGs must incorporate into their operating procedures the requirements of this Policy including this Policy's Terms and Conditions document. Individual CPGs may expand on, but not contradict, provisions in this Policy to better meet the needs of their communities. CPGs that wish to be recognized must agree to the requirements of the Terms and Conditions document and submit their operating procedures to the City prior to the Council approving a resolution to recognize the CPG. City staff, as assigned by the City Manager, will regularly monitor the compliance of CPGs with this Policy.

Each recognized CPG must make their operating procedures available to the public upon request. CPGs should timely submit to the City any updates to its operating procedures. As this Policy may be amended from time to time, the Council will inform recognized CPGs if they must amend their operating procedures to conform to the amended Council Policy.

CPGs incorporated under the laws of the State of California are responsible for maintaining corporate documents, including articles of incorporation and corporate bylaws, and for complying with State laws and requirements.

A. Compliance with the Ralph M. Brown Act.

Recognized CPGs 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), as may be amended from time to time, by conducting meetings that are open to the public, properly noticed, and in compliance with each of the Brown Act provisions. Meeting agendas, minutes, rosters, and annual reports are disclosable public records and must be retained as described in C, below.

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B. Rules of Parliamentary Procedure.

CPGs must adopt rules of procedure, such as Robert's Rules of Order or Rosenberg's Rules of Order, that may be used as a guide when this Policy and CPG requirements do not address an area of concern or interest. These rules of procedure provide a uniform means to facilitate public meetings, conduct public business, and resolve disputes.

The City encourages CPGs to follow the Robert's Rules of Order procedures for setting times for agenda items to be considered and to adhere to a meeting schedule that has a standard start and end time for meetings as a courtesy to CPG voting members, the public, applicants, and others who may be in attendance.

The City may monitor CPG agendas to determine whether City staff should attend a CPG hearing. The City encourages CPGs to prioritize agenda items in a manner that is respectful of the time of City staff in attendance.

C. Open and Public Records.

The City encourages recognized CPGs to use publicly accessible websites and social media to post meeting agendas, minutes, reports, general information, and contact information provided in a manner that is consistent with the Brown Act.

A recognized CPG must maintain its official records, including its rosters, annual reports, meeting agendas, and meeting minutes, for a minimum of five years from the date each record is created, and must make all records, as defined below, available to the City and to any member of the public upon request and consistent with the timelines provided by applicable law. An official record is any writing distributed to all CPG voting members in connection with a matter that is subject to consideration at an open meeting of a recognized CPG.

Written applications submitted to the CPG by individuals wishing to serve as voting members, and election results, are considered official records and must be maintained by the CPGs in accordance with this Policy. Each recognized CPG must submit to the Office of the City Clerk the rosters of CPG voting members by May 1st of each year and must also promptly submit to the Office of the City Clerk any changes to rosters as a result of CPG elections.

The City, acting through the City Manager or designee, may monitor a CPG's records related to this Policy, including its rosters, meeting minutes, and annual reports, to ensure compliance with this Policy.

In addition, each recognized CPG must submit its advisory recommendations and any other records requested by the City to the City within ten business days of preparation so that the City may make the information publicly available.

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D. Community Representation.

The Council intends that voting members of recognized CPGs, to the greatest extent possible, be representative of the entire community within that CPG's boundaries. Recognized CPG voting members must be elected by and elected from members of the community within that CPG's boundaries. To be recognized as a CPG, and to maintain recognition, the organization must demonstrate to the City that it fairly represents all members of the community and is accessible to all members of the community within that CPG's boundaries.

The City will only recognize a CPG with a minimum of 10 voting members. The City recommends no more than 20 voting members to allow for effective operations. However, 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.

In addition, for the purpose of ensuring better representation of unique interests, a CPG may create separate "appointed seats." Where appointed seats are created, a CPG's operating procedures must specify the rights and duties of those appointed voting members, such as whether the appointed members may vote and count toward a quorum of the group. Elected CPG members, plus those appointed members who the CPGs authorize to vote, together constitute the "voting members" of the CPG.

To be recognized, a CPG must ensure that voting members meet the following minimum qualifications to serve: the voting member must be at least 18 years of age, unless the CPG has an appointed youth representative, and must be affiliated with the community as a: (1) property owner, who is an individual identified as the sole or partial owner of record, or their designee, 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 owner, operator, or designee at a non-residential real property address in the community planning area as evidenced by a business tax certificate. Only one representative of a particular business establishment may hold a seat on the CPG at one time. "Residents," including renters, should be given a pro-rata share of seats to fairly reflect the community. The City encourages CPGs to designate seats for each community affiliation listed above so that all community interests in this paragraph are represented.

Eligibility (and demonstration of eligibility) to vote may be further defined in the CPG's operating procedures. Once eligibility to vote in an election is established, an individual remains eligible until he or she does not meet the eligibility requirements.

A voting member of a CPG must maintain eligibility during the entire term of service. A CPG must include in its operating procedures for removal of voting members for failure to maintain eligibility, which should provide affected voting members with fair notice and require ineligibility determinations to be supported by documentation.

The City may, and each recognized CPG must, gather certain demographic data of existing and new CPG voting members and the community at large, at the time of elections or other regular

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periods, to measure inclusion and diversity on the CPG. The CPG may compare this data with the demographics of the community at large as may be available from the City or other agencies. Participation in any survey of demographic data will be voluntary and must be conducted in a manner to ensure the privacy of responses and respondents. The CPG may not request this information as part of an application with personal identifying information.

The demographic data gathered should include age range, nature of relationship to community (homeowner, renter, or business owner), duration of relationship to community, ethnicity, race, gender, professional background or expertise, and length of service or involvement with the CPG. The City may assist with outreach efforts to broaden the scope of diversity and inclusion in participation on CPGs to the extent possible.

E. Open and Public Elections.

CPGs must develop election procedures to ensure equal participation by all members of a community, including limiting the time that voting members of a recognized CPG can serve. All members affiliated with the community, as defined in Section II.D, within the boundary of a CPG may vote in CPG elections, and no additional qualifications, such as attendance requirements, may disqualify someone from voting. No voting requirement can be stricter than the requirements allowed by the California Elections Code voter qualifications.

Each recognized CPG must 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. These provisions should provide for a fair and transparent process intended to ensure outreach to the entire community in CPG operations.

When elections for CPG voting members take place in person, CPGs should adopt procedures to ensure a fair and open process; for example, making voting available for at least two hours at the time and place of the CPG's regularly scheduled meeting.

Recognized CPGs must establish term limits to ensure that the organization is not dominated over time by individuals or groups within the community. Recognized CPGs must implement term limits using the following guidelines: no person should serve on a CPG for more than eight consecutive years if members are elected to two- or four-year terms, or nine consecutive years if members are elected to three-year terms. The eight- or nine-year limit refers to total service time, not to individual seats held.

CPGs may develop procedures for waiving this limitation in service by vote of a recognized CPG if the CPG cannot find enough new voting members to fill all vacant seats after a good faith effort to do so. If a CPG exercises this waiver, the City recommends that it use the following guidelines: (1) the group may operate with an unfilled seat until another candidate can be found, unless the total membership drops below the minimum number of 10 voting members. If an eligible candidate cannot be found within six months or group membership is at risk of falling below the minimum number of voting members, the CPG may follow another guideline (2) a voting member may serve more than eight or nine consecutive years (as specified above) if there are fewer candidates than vacant seats and the voting member is reelected to a remaining open

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seat by at least a two-thirds majority of the votes cast by eligible community members participating in the regular election; (3) the number of individuals on a CPG serving more than eight or nine consecutive years should not exceed twenty five percent of the elected voting members of the group; and (4) the term of a member elected by a two-thirds vote serving beyond eight or nine years should count as time served beyond the required break in service as required by this section.

F. Established Policies and Procedures.

Each CPG must establish operating procedures that include the requirements set forth in this Policy and the Terms and Conditions. The operating procedures for each recognized CPG must ensure that the public has notice of the operations and activities of the CPG and includes the following topic areas:

1. Community participation that may include community outreach and recruitment of diverse representation on the CPG.
2. CPG composition describing open, designated, or appointed seats of voting members, conduct of elections, term limits, and mechanisms to inform and involve community members.
3. Conduct of meetings describing meeting noticing, including subcommittees; meeting operations such as time limits on speakers and maintaining a civil meeting environment; subcommittee operations such as a process for project reviews and amendments to operating procedures; the role of the chair in voting; recordkeeping and the procedures for public input on agenda items.
4. Voting member and CPG responsibilities such as the process for filling vacant seats either during a term or following an election; how CPG positions will be reported to the City; and discipline or removal of an individual voting member.

III. RELATIONSHIP BETWEEN RECOGNIZED CPGS AND THE CITY.

- A. As requested by the City, recognized CPGs must work with City staff throughout the community planning process, including during the formation of long-range community goals, objectives, and proposals or revisions for inclusion in a General or Community Plan. The City will provide annual training on decision-making processes and planning via a formal education program.
- B. Attendees at recognized CPG meetings and CPG voting members must conduct themselves professionally and refrain from disrupting the public process as set forth on the CPG's agenda. A CPG may ask voting members or members of the public to leave the meeting if their disruptive conduct inhibits the progress of the meeting.

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- C. Recognized CPGs and their voting members must routinely seek community participation in the planning and implementation process to serve the best long-range interest of the community at large.
- D. Recognized CPGs may develop a policy for financial contributions in a manner that is consistent with the law and the CPG's corporate governance documents, if any, for the purposes of furthering the CPG's efforts to promote understanding and participation in the community planning process. However, CPGs may not charge membership dues or a fee to attend CPG meetings. All contributions must be voluntarily made, and no CPG action or correspondence may be withheld based on any individual's or applicant's desire to not make a voluntary contribution. Contributions must be maintained in an account at a recognized banking or financial institution and two signatures from different CPG-authorized individuals must be required for a transaction to occur. The City is not responsible in any manner for this account.
- E. Recognized CPGs must develop operating procedures detailing the training requirements of all CPG voting members to complete the City's formal education program, which is offered online, each year and each time they are elected, re-elected, appointed, or re-appointed. The training will include the Brown Act, project development review, and an advanced curriculum for returning voting members. This training may also include sessions for CPG voting members and the public to increase understanding of the project review process and the roles and responsibilities of CPGs. Chairs and Vice-Chairs of CPGs and any CPG subcommittee or ad hoc committee should also attend advanced trainings in the development review process specific to CPG responsibilities and limits; California Environmental Quality Act (CEQA) review training; conduct of meetings and CPG operations; and an interactive component where new members can learn from experienced CPG voting members. These trainings will be provided by the City either online or in person. The training must meet the requirements of San Diego Ordinance O-19883. Newly seated CPG members must complete the City's formal training program within 60 days of being elected or appointed to a CPG, or the individual will become ineligible to serve as a voting member.
- F. Recognized CPGs must implement operating procedures that describe ethical, equitable, and inclusive standards for all CPG voting members and guard against CPG voting member conflicts of interest and undue influence.
- G. Voting Members of CPGs are expected to treat each other, members of the community, and City staff in a professional manner. A CPG should investigate complaints of voting member unprofessionalism for disciplinary action in accordance with their operating procedures. A CPG that fails to adequately manage issues of unprofessionalism of voting members with City staff may be in violation of Council Policy 600-24 and subject to corrective actions, including possible revocation of recognition.

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IV. SCOPE OF ADVISORY RECOMMENDATIONS.

Recognized CPGs may make recommendations to the City and other governmental agencies on matters concerning the preparation of, adoption of, implementation of, or amendment to, the General Plan or a land use plan when a plan relates to each recognized CPG's planning area boundaries, or related matters associated with implementation of its community plan.

Recognized CPGs may be called upon to advise on, or participate in, additional efforts such as identifying Capital Improvement Project infrastructure needs, as discussed in Council Policy 000-32. Pursuant to the provisions of Council Policy 600-33, a recognized CPG may be asked to review a park general development plan or capital improvements within the park if there is no City-recognized park advisory group.

The City will endeavor to document CPG recommendations, including project review recommendations, on the City website. The City will endeavor to notify CPGs of discretionary permits or actions located within their area.

Private project applicants are not required by this policy to present their application before CPGs, although the City encourages applicants to conduct robust engagement with CPGs, the community, and project neighbors. Because CPGs are independent of the City, the City does not consider CPG hearings to be hearings as defined in California Government Code section 65905.5.

V. DEADLINES FOR RECEIPT OF RECOMMENDATIONS AND COMMENTS.

A CPG must submit its advisory recommendation on a development project, if any, to the City within seven calendar days of the CPG's approval of the recommendation. The City may decline to review any advisory recommendation submitted to the City eight or more calendar days after the recommendation was approved by the CPG.

In addition, each CPG must follow a uniform, mandatory process for recording and posting CPG project review recommendations. This process should either use a revised annual report that includes all project recommendations, or a Bulletin 620 Distribution Form revised to include the number of times the applicant presented to the CPG per project and any major conditions to the project proposed by the CPG.

For a development project that requires an Environmental Impact Report, a recognized CPG must submit its comments before the public review period closes. If a CPG does not provide its comments during the public review period, the City may decline to consider the comments or other recommendations as allowed by State law.

The consistent failure of a recognized CPG 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 plan, or failure to review and reply to the City in a timely manner on development projects, may result in revocation of recognition under this Policy. Such

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a determination resulting in the forfeiture of rights to represent its community for these purposes must be made only by a resolution of the Council, upon the recommendation of the Mayor, setting forth findings justifying a revocation of a CPG's recognition.

VI. COLLECTIVE ACTION OF RECOGNIZED CPG.

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

VII. DISCRIMINATION PROHIBITED.

Recognized CPGs must 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, or any other protected characteristic.

VIII. RIGHTS AND LIABILITIES OF RECOGNIZED CPGs.

A. Indemnification of CPGs.

The City will indemnify, and the City Attorney will defend, a CPG or its individual voting members, acting in their advisory 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 a CPG or its duly elected or appointed voting members resulting from their recognized role as specified in this Policy, so long as their conduct was in conformance with this Policy, 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 does not apply to allegations of criminal wrongdoing, including alleged criminal violation of the Brown Act.

A CPG or individual voting member found to be out of compliance with the provisions of Council Policy 600-24, with its associated Terms and Conditions, or with the group's adopted operating procedures, risks loss of defense and indemnification pursuant to the Ordinance, and any future amendments.

B. Violations and Remedies Related to Provisions Citing the Brown Act.

Some provisions of this Policy are identified as requirements of the Brown Act, which may include civil remedies (California Government Code sections 54960 through 54960.5) and criminal penalties (Government Code section 54959) for violation of its provisions. CPGs are expected to 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 a recognized CPG, as well as the group as a whole, could potentially be subject to civil remedies. Civil remedies may include relief to prevent or stop future or ongoing violations

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of the Brown Act, or to void past actions of a CPG, and may in some cases include payment of court costs and attorney's fees.

Voting members of a CPG may also potentially face criminal misdemeanor charges for attending a meeting where action is taken in violation of the Brown Act, if the 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. Any CPG, or any of its individual 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 a recognized CPG to appropriate law enforcement agencies, including the California Attorney General, San Diego County District Attorney, or San Diego City Attorney's Criminal Division.

C. Council Policy 600-24 Violations and Remedies.

A CPG that violates this Policy may forfeit its status as a recognized CPG and lose its right to indemnification and defense by the City. A CPG voting member risks loss of defense and indemnification pursuant to San Diego Ordinance No. O-19883 and any future amendments.

In the case of an alleged violation of Council Policy 600-24, a CPG's associated Terms and Conditions, or operating procedures by a CPG voting member, the CPG must conduct an investigation consistent with this Policy.

If the CPG determines a violation has occurred, the CPG's findings must be forwarded in writing to the City within 30 days of such finding for review by the Mayor or designee. The City will work with the CPG to determine the validity of the complaint and to seek resolution.

If the Mayor or designee is unable to resolve a dispute or determines that there has been a violation, the Mayor or designee may seek to resolve the dispute or violation informally, with the cooperation of the CPG, or may recommend to the Council that the CPG's recognition be revoked.

If the Council determines through a recommendation from the Mayor that a CPG has violated this Policy and the CPG has failed to take corrective action deemed adequate in the sole discretion of the Council, the Council may revoke the CPG's recognition under this Policy. The Council may also prescribe conditions under which official recognition may be reinstated.

D. Violations and Remedies for Quorum and Attendance Requirements

If a CPG is unable to meet quorum and attendance requirements for three consecutive months, then the 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 may recommend to the Council that the CPG's recognition be revoked.

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HISTORY:

Amended by Resolution R-300940 – 10/17/2005
Amended by Resolution R-302671 – 05/22/2007
Amended by Resolution R-307347 – 04/05/2012
Amended by Resolution R-309298 – 11/14/2014
Amended by Resolution R-_____ --

Attachment:

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

DRAFT