



# REPORT TO COUNCIL City of Sacramento

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**Staff Report**  
**September 29, 2009**

**Honorable Mayor and  
Members of the City Council**

**Title: Pass for Publication: Repeal and Re-Enact City Code Chapter 2.60 Relating to the Planning Commission (M09-033)**

**Location/Council District:** Citywide

**Recommendation:** 1) Review an Ordinance to repeal and re-enact City Code Chapter 2.60 and amending section 2.40.030 relating to the Planning Commission; and 2) pass for publication of title as required by Sacramento City Charter 3(c) to be adopted on October 6, 2009.

**Contact:** Stephanie Mizuno, Assistant City Clerk, 808-7200  
David Kwong, Planning Director, 808-2691

**Presenters:** Shirley Concolino

**Department:** City Clerk's Office and Community Development Department

**Division:** N/A

**Organization No:** 04001011/21001011

## **Description/Analysis**

**Issue:** On August 25, 2009 the City Council approved a motion to change the appointment procedure residency requirements for members of the City Planning Commission from nine "at-large seats" to one seat representing each of the eight Council districts and one representing the Mayor. This change shifts the nominating authority from the Personnel and Public Employees Committee to the City Council.

**Policy Considerations:** The City Council has the discretion to modify the City Code to change the provisions of any board or commission.

**Environmental Considerations:** None.

**California Environmental Quality Act (CEQA):** None.

**Sustainability Considerations:** None.

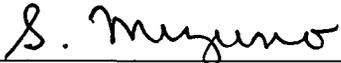
**Commission/Committee Action:** On August 25, 2009 the City Council directed that a modification in the appointment residency requirements for this Commission be brought back to the full City Council for review.

**Rationale for Recommendation:** To change the requirement for membership to the Commission from residency at-large to residency in Council districts, and shift the responsibility for making recommendations of persons for appointment to positions on the Planning Commission from the Personnel and Public Employees Committee to the members of the City Council.

**Financial Considerations:** None.

**Emerging Small Business Development (ESBD):** Not applicable.

Respectfully Submitted:   
David Kwong,  
Planning Director

Respectfully Submitted:   
Stephanie Mizuno  
Assistant City Clerk

Approved:

  
Shirley Concolino  
City Clerk

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**ATTACHMENT 1****Background:**

The Planning Commission currently consists of nine (9) members, appointed by the Mayor with the approval of a majority of the City Council, with the requirement that each member reside in the City of Sacramento. Under Article I of Chapter 2.40 of the City Code, the Personnel and Public Employees Committee reviews applications and makes recommendations to the Mayor for appointments to the Planning Commission.

On August 25, 2009, the City Council approved a motion to change the residency requirements from nine “at-large seats” to one seat representing each of the eight Council districts and one representing the Mayor. This would shift the recommendation authority to the City Council.

To implement these changes, the proposed Ordinance calls for each Council member to recommend to the Mayor an individual from his or her district for appointment to the Planning Commission. The Mayor would make the appointment subject to the concurrence of a majority of the City Council (see City Charter Article XV). Because the recommendations for appointment will come directly from each Council member, these appointments would *not* be subject to review and recommendation by the Personnel and Public Employees Committee.

The proposed Ordinance would dissolve the existing Planning Commission and replace it with a newly constituted and appointed Planning Commission upon the effective date of the Ordinance. To facilitate the transition to the new Planning Commission, the Ordinance provides that it will take effect on January 1, 2010. This delay would allow time (1) for the Clerk’s Office to notice an application period for the new seats (which is typically 30 days) and forward the applications to the respective Council member’s and Mayor’s offices, (2) for the Council members and the Mayor to review the applications and submit a recommendation to the Mayor, and (3) to schedule Council confirmation of the appointments on the Council’s first meeting in January, 2010. The delay would also allow planning staff to inform applicants of the impending change and to schedule hearings in a manner to minimize disruptions and delays to the applicants.

The terms of the current Planning Commission are for four years and are staggered in groups of three. This results in three terms expiring each year for three years, and none expiring in the fourth year. The proposed Ordinance provides for similar staggered terms. To achieve this, the initial terms are established as follows: the initial appointees from the First, Second, and Third council districts would serve a term of two years each; the initial appointees from the Fourth, Fifth, and Sixth council districts would serve a term of three years each; and the initial appointees from the Seventh and Eight council districts and the mayor’s initial appointee would serve a term of four years each. Thereafter, all members would be appointed to serve a four year term. This is a typical way to create staggered terms. The selection of which district appointees would serve the initial 2- and 3-year terms was done numerically, but can be changed if Council so desires.

The proposed Ordinance also provides that the initial terms, including the two-year terms, will count as full terms for purposes of applying the 2-term limitation on consecutive terms under section 2.40.120. As a result, the appointees to the 2-year term seats can serve a total of 6

consecutive years if re-appointed to a second term; the appointees to the 3-year term seats can serve a total of 7 consecutive years if re-appointed to a second term; and the appointees to the 4-year term seats can serve a total of 8 consecutive years if re-appointed to a second term.

The Ordinance proposes other “housekeeping” type changes to Chapter 2.60. It would add express references to provisions of the City Charter and other provisions of the City Code that govern the Planning Commission, including references to the conflict of interest chapter in the Code and the compensation section of the Charter. It would also establish a quorum requirement (majority of members then in office) and the minimum number of votes to take action (5) to conform to what now applies to Council.

In order to provide the members of the City Council with flexibility in making their recommendations for appointment to the newly established Planning Commission, the proposed Ordinance provides that any term served on the Planning Commission existing prior to the effective date of the proposed Ordinance shall not be counted for purposes of applying the limitation on the number of consecutive terms a person may serve under Sacramento City Code Section 2.40.120.

**ATTACHMENT 2**

**ORDINANCE NO.**

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF \_\_\_\_\_

**AN ORDINANCE REPEALING AND RE-ENACTING CHAPTER 2.60 OF  
TITLE 2 OF THE SACRAMENTO CITY CODE RELATING  
TO THE PLANNING COMMISSION (M09-033)**

**BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:**

**SECTION 1.** Chapter 2.60 of Title 2 of the Sacramento City Code is repealed.

**SECTION 2.** Chapter 2.60 of Title 2 of the Sacramento City Code is reenacted to read as follows:

Chapter 2.60

**PLANNING COMMISSION**

~~2.60.010-Created.~~ Commission -- Established.

~~There is created a planning commission for the city-~~ is established.

~~2.60.020 Composition—Appointment of members and qualifications.~~

~~The planning commission shall be composed of nine members. A. Members of the planning commission shall be appointed by the mayor, with the approval/concurrence of the city council. The requirements of Article XV of the City Charter, and Chapter 2.40 of this code governing attendance at board and commission meetings (Article II), voting (Article III), and limitation on consecutive terms (Article IV), shall apply to the planning commission. A term of two years for initial appointees under section 2.60.030 shall constitute a full term for purposes of calculating the two-consecutive term limit under section 2.40.120. A member is subject to removal for good cause, neglect of duty or misconduct as provided in City Charter Section 232.~~

~~B. The planning commission shall consist of nine members. One (1) member shall be appointed to represent the city at-large and one (1) member shall be appointed to represent each of the city's eight (8) council districts. The mayor shall recommend a resident of the city for appointment to the at-large seat, and each of the other members of the city council shall recommend one resident from his or her respective council district for appointment to the council~~

district seats. The member recommended to represent the city at-large may be appointed and shall serve only so long as he or she is a resident of the city. A member recommended to represent a city council district may be appointed and shall serve only so long as he or she is a resident of the district he or she is appointed to represent. If the at-large member of the planning commission ceases to be a resident of the city, that member's seat shall automatically become vacant. If a member of the planning commission representing a council district ceases to be a resident of that council district, that member's seat shall automatically become vacant.

2.60.030—Term of office of members—Filling vacancies—Term of office--Vacancy.

—The Except as provided in this section for the length of the terms of the initial appointees, the term of office of members for each member of the planning commission shall be four years and until their successors are his or her successor is appointed. Members of the planning commission serving upon the effective date of this section shall continue in office until the expiration of their current terms of membership and until their successors are appointed. A vacancy in membership upon the planning commission Terms shall be filled by appointment for the unexpired term of the former member. staggered. The initial appointees from the First, Second, and Third council districts shall serve a term of two years each. The initial appointees from the Fourth, Fifth, and Sixth council districts shall serve a term of three years each. The initial appointees from the Seventh and Eight council districts and the mayor's initial appointee shall serve a term of four years each. Thereafter, all members shall be appointed to serve four year terms. If a vacancy occurs during the term of any member, the mayor shall appoint, with the concurrence of the council, a successor to serve during the unexpired term. The successor shall be recommended in the same manner as, and shall possess the qualifications required for, the seat being filled.

2.60.040 Conflict of interest and financial disclosure statements.

All appointees to the planning commission shall be subject to Chapter 2.16 of this code relating to conflicts of interest and shall be required to file statements disclosing financial interests pursuant to the city's conflict of interest code.

2.60.050 Functions.

—The functions of the planning commission are as follows:

- A. It shall develop and maintain a general plan;
- B. It shall develop such specific plans as may be necessary or desirable;
- C. It shall perform such other functions as the city council may provide.

2.60.050 Compensation.

Each member of the planning commission shall receive compensation as determined by the compensation commission under Section 29 of the City Charter.

2.60.060 Rules Organization and regulations procedures.

A. Annually, the planning commission shall elect from among its membership a planning commission chairperson and a vice chairperson, who shall each hold those positions at the pleasure of the planning commission. When there is a vacancy in the office of chairperson or vice chairperson, the planning commission shall fill that position from among its members.

B. The planning commission shall establish a time and place for regular meetings to be held not less frequently than monthly. Each meeting shall be noticed and held in accordance with the Ralph M. Brown Act (Government Code section 54950 et seq.). The planning commission chairperson shall have the authority to notice and hold special meetings in the manner specified in the Ralph M. Brown Act.

C. A quorum comprised of planning commission members present and qualified to act shall be required for the planning commission to conduct a meeting and take action. A quorum shall consist of a majority of members of the planning commission then in office.

D. The planning commission shall act only by motion. An affirmative vote of five planning commission members present and qualified to vote shall be necessary to pass any motion.

E. The planning commission shall adopt such rules, and regulations and resolutions as it shall deem necessary, and consistent with the provisions of this chapter, for the conduct of its business.

2.60.070 Powers and duties.

The planning commission shall have the necessary powers and duties to carry out the State Planning and Zoning Law (Government Code section 65000 et seq.), subject to the provisions of this code, including but not limited to the following:

A. Chapter 2.112 relating to City planning;

B. Title 16 relating to subdivisions;

C. Title 17 relating to zoning.

2.60.080 Administrative support.

The planning director, or his or her designee, shall provide administrative support to the planning commission.

**SECTION 3.** Section 2.40.030 of Title 2 of the Sacramento City Code is amended to read as follows:

2.40.030 Applicability.

The provisions of this article shall apply to persons recommended to the mayor by the personnel and public employees committee as appointees for positions on the city council and the following boards and commissions:

- Administration, investment and fiscal management board of the city retirement system
- Board of plumbing examiners
- Building and fire code advisory and appeals board
- Civil service board
- Design commission
- Electrical code advisory and appeals board
- Housing code advisory and appeals board
- Mechanical and plumbing code advisory and appeals board
- Old Sacramento variance appeals board
- ~~Planning Commission~~
- Preservation commission
- Retirement hearing commission
- Sacramento city public facilities financing corporation
- Utilities rate advisory commission

**SECTION 4.** Any term served on the Planning Commission created and existing pursuant to Sacramento City Code Chapter 2.60 as formerly written immediately prior to the effective date of this Ordinance shall not be counted for purposes of applying the limitation on the number of consecutive terms a person may serve under Sacramento City Code Section 2.40.120.

**SECTION 5.** Adoption of this ordinance repealing and reenacting Sacramento City Code Chapter 2.60 is not intended to and does not affect any approvals made, and entitlements issued, with attendant conditions, by the Planning Commission prior to the effective date of this ordinance and prior to dissolution of the Planning Commission by virtue of adoption of this ordinance. All such approvals and entitlements shall continue in effect subject to the terms and conditions established by the Planning Commission and the provisions of Chapter 2.60, Chapter 2.112, Title 16, Title 17, and any other provisions of the Sacramento City Code as they existed prior to the effective date of this ordinance.

**SECTION 6.** Adoption of this ordinance repealing and reenacting Sacramento City Code Chapter 2.60 is not intended to and does not affect any administrative, civil, or criminal prosecutions or proceedings brought or to be brought pursuant to Title 16, Title 17, or any other provisions of the Sacramento City Code, or pursuant to applicable federal, state, or local laws, to enforce those provisions as they existed prior to the effective date of this ordinance. The provisions of Title 16, Title 17, and any other provisions of the Sacramento City Code as they exist on the effective date of this ordinance, shall continue to be operative and effective with regard to any acts occurring prior to the effective date of this ordinance.

**SECTION 7.** This ordinance shall take effect January 1, 2010. Upon the effective date of this ordinance the Planning Commission created and existing pursuant to Sacramento City Code

Chapter 2.60 as formerly written shall dissolve and no longer exist or exercise authority. All matters then pending under the jurisdiction of the Planning Commission shall be transferred to the Planning Commission established under this Ordinance.

**ATTACHMENT 3**

**ORDINANCE NO.**

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2.60.010 Commission -- Established.

The planning commission is established.

2.60.020 Appointment of members and qualifications.

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2.60.030 Term of office--Vacancy.

Except as provided in this section for the length of the terms of the initial appointees, the term of office for each member of the planning commission shall be four years and until his or her successor is appointed. Terms shall be staggered. The initial appointees from the First, Second, and Third council districts shall serve a term of two years each. The initial appointees from the Fourth, Fifth, and Sixth council districts shall serve a term of three years each. The initial appointees from the Seventh and Eight council districts and the mayor's initial appointee shall serve a term of four years each. Thereafter, all members shall be appointed to serve four year terms. If a vacancy occurs during the term of any member, the mayor shall appoint, with the concurrence of the council, a successor to serve during the unexpired term. The successor shall be recommended in the same manner as, and shall possess the qualifications required for, the seat being filled.

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D. The planning commission shall act only by motion. An affirmative vote of five planning commission members present and qualified to vote shall be necessary to pass any motion.

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- Design commission
- Electrical code advisory and appeals board
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- Old Sacramento variance appeals board
- Preservation commission
- Retirement hearing commission

Sacramento city public facilities financing corporation  
Utilities rate advisory commission

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**SECTION 7.** This ordinance shall take effect January 1, 2010. Upon the effective date of this ordinance the Planning Commission created and existing pursuant to Sacramento City Code Chapter 2.60 as formerly written shall dissolve and no longer exist or exercise authority. All matters then pending under the jurisdiction of the Planning Commission shall be transferred to the Planning Commission established under this Ordinance.