



**TITLE:** Residency and Attendance Requirements, and Establishing a Quorum

**POLICY NUMBER:** 2-11

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**ENABLING ACTIONS:**

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**APPROVED:**

**PURPOSE**

To establish a policy to encourage participation by the Town’s residents on Town Boards, Commissions and Committees (hereinafter referred to as "Commissions"). The Town of Los Gatos is committed to inclusivity. We value all our community members, regardless of religion, immigration status, ethnicity, race, disability, gender, sexual orientation, or gender identity. The Town will encourage residents to participate on Commissions by advertising vacancies on Commissions for at least 30 days, preparing easily understood applications, maintaining clear descriptions of the role of each Board, Commission, and Committee and its respective members, providing current meeting schedules, and conducting public interviews of all Commission applicants, except as provided by this Policy.

**SCOPE**

This Policy applies to all applicants to Town Boards, Commissions and Committees.

**POLICY**

The Town Council encourages public participation in all decision-making and to be successful residents must be assured both that the participation is meaningful and that their input will be valued. The widest representation from the community can only be achieved if vacancies are well advertised so that anyone interested will have the opportunity to apply. Interviews of the applicants conducted in public by the Town Council demonstrates that it values these appointments and that all have an equal opportunity to be appointed. Applicants may apply to more than one Commission, and shall rank their choices in their preferred order, during each recruitment cycle.

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To ensure the greatest possible participation by the public, ~~it is the Town's policy that~~ no person shall be appointed to more than one Commission except in those cases where they are ex-officio members of other Boards, Commissions and Committees. ~~This Policy does not apply to or~~ Commission members (hereinafter referred to as "Commissioners") serving as representatives of their Commission who have been appointed by the Town Council.

## RESIDENCY REQUIREMENTS

Residency within the incorporated municipal limits of the Town of Los Gatos, California is required for appointment and continued membership on all Town of Los Gatos Boards, Commissions, and Committees, with the exception of the Youth Commission and the Diversity, Equity, and Inclusion Commission.

### Youth Commission:

The members shall be students who are entering grades 8 through 12 in the fall. Membership for the students requires either residency in the incorporated limits of the Town of Los Gatos or residency in the unincorporated areas of the County of Santa Clara, which have a Los Gatos mailing address.

### Diversity, Equity, and Inclusion Commission:

Membership composition shall be as outlined in the Commission's enabling resolution and includes a Los Gatos business owner/employee, faith leader who leads a congregation in Los Gatos, and Los Gatos non-profit employee who may or may not reside in Los Gatos.

## ATTENDANCE REQUIREMENTS

1. All members of all appointive ~~Town Advisory Bodies~~Commissions should attend all regular and special meetings of said ~~Advisory Bodies~~Commissions.
2. Consistent with the Town Council's summer recess, Commissions will not schedule a regular meeting in the month of July to allow time for vacations.
- ~~2.3.~~Any member not in attendance at a regular meeting of said ~~Advisory Body~~Commissions for at least 70% of the meeting shall be considered absent. To allow Commissioners to plan ahead to meet the 70% requirement, there will be a two-hour time limit for a regular Commission meeting with the exception of the Planning Commission and the Historic Preservation Committee and meetings containing discussion regarding the Town's annual budget.
- ~~3. Any member of an appointive Town Advisory Body who is absent from the number of regular meetings listed below appropriate to his or her Advisory Body shall, as a result, surrender his or her office on the Advisory Body and the office shall be considered vacant.~~
  - ~~a. For an Advisory Body which holds six (6) or more regular meetings per a consecutive twelve (12) month period: three (3) regular meetings.~~

- ~~b. For an Advisory Body which holds five (5) or fewer regular meetings per a consecutive twelve (12) month period: two (2) regular meetings.~~
- ~~c. For an Advisory Body which holds sixteen (16) or more regular meetings per a consecutive twelve (12) month period: eight (8) regular meetings.~~
- ~~4. Consistent with the Family Medical Leave Act and the California Family Rights Act, absences of up to 12 weeks due to parental leave constitute excused absences.~~
4. A Commissioner shall be deemed to have automatically surrendered their office if they have either:
- a. Three consecutive unexcused absences from the regular meetings of the Commission; or
  - b. Unexcused absences totaling more than twenty percent\* of the total number of scheduled regular meetings in any calendar year;\* or
  - c. Absences, whether excused or unexcused, totaling more than thirty-five percent\* of the total number of scheduled regular meetings in that calendar year.\*\*
5. Excused absences shall be limited to those which meet both of the following requirements:
- a. The absent Commissioner must have informed the chair and the staff liaison to the Commission, of their intended absence prior to the scheduled meeting. (Failure to inform the chair and the staff liaison prior to the meeting shall result in an unexcused absence unless an unusual circumstance prevents advance notice.); and
  - b. The following shall be considered an excused absence:
    - i. An absence due to illness of the Commissioner; or
    - ii. An absence due to a medical emergency of the Commissioner or the Commissioner's immediate family (spouse, domestic partner, parent, child, sibling, or dependent); or
    - iii. An absence due to the Commissioner's need to provide direct caregiving related to the illness of the Commissioner's immediate family (spouse, domestic partner, parent, child, sibling, or dependent); or
    - iv. An absence due to the death of a Commissioner's immediate family (spouse, domestic partner, parent, child, sibling, or dependent); or
    - v. An absence because a Commissioner is away on authorized commission business; or
    - vi. An absence due to required military service; or
    - vii. An absence related to Federal and State Family Leave.
- 5.6. For all Commissions other than the Finance Commission, The vacant positions shall be filled by appointment by a majority vote of the Town Council, for a term equal to the unexpired portion of the office vacated. Any member removed from office due to non-attendance may re-apply to serve on a Town ~~Advisory Body~~Commission but will not be treated as an incumbent in any subsequent application to the same ~~Advisory Body~~Commission.

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~~6. If a Youth Commissioner liaison misses three meetings of a liaison Commission during a consecutive twelve (12) month period\*, the Youth Commission shall appoint a different Youth Commissioner as liaison.~~

~~\* Percentages will be rounded to the nearest whole number using standard rounding rules (less than .5 will round down and .5 or more will round up) and if the Commissioner was appointed to fill a vacancy, more than twenty percent of the total number of remaining scheduled regular meetings in that calendar year.~~

~~\*\* Consecutive twelve (12) month period is defined as any consecutive twelve-month period beginning with the first absence. A calendar year is defined as January 1 through December 31. Any absence that causes the cancellation of a regular meeting due to lack of a quorum shall be counted as an absence for the Commissioner. A regular meeting shall not be cancelled and replaced with a special meeting in order to alleviate an absence by an advisory body member Commissioner.~~

## QUORUM REQUIREMENTS

The number of members needed to constitute a quorum on any Town ~~Advisory Body~~Commission shall be a majority of the ~~total number of filled seats~~Commission.

## PROCEDURES

The following procedures will be followed by the applicant, the Town Clerk, and the Town Council for the appointment of applicants to Town Commissions:

### Responsibility and Actions: Town Clerk

#### A. Annual Recruitments

Adult ~~Commission member~~Commissioners' terms begin on January 1<sup>st</sup> and end on December 31<sup>st</sup>, Youth Commissioners' terms ~~follow the academic year and~~ begin on August ~~September~~ 1<sup>st</sup> and end on ~~June~~ May 31<sup>st</sup>. The Town Clerk shall perform the following duties in conducting an annual recruitment for ~~Commission member~~Commissioners:

1. Notify Town Council of vacancies on Commissions by indicating the names of the Commissions, the number of terms expiring or being vacated, names of individual(s) with expiring terms or vacating seats, advertising periods (at least 30 days) and the date of interview.
2. Advertise the vacancies, including the application deadline and the interview date. Interviews and appointments for Adult Commissioners shall occur after annual Mayor and Vice Mayor selection, and in the case of election years, after new Council Members have been seated. Interviews and appointments for Youth Commissioners shall occur by the fourth Wednesday in May, no earlier than 4:00 p.m.

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3. Prepare and maintain easily understood applications for appointment to Commissions. Applications shall include the following policy information:
  - a. Prior to initial appointment to any Commission, non-incumbent applicants must be interviewed by the Town Council, with the exception of the Finance Commission which will be interviewed by the appointing Council Member. The applications of those not appearing-interviewed will be held for the next recruitment.
  - b. If an incumbent Commissioner is requesting reappointment to the same Commission and is not available to be interviewed, the incumbent may submit a request to be interviewed by telephone, with their application, instead of attending the interview or must submit a letter prior to the interviews, describing the reason why the applicant cannot be present telephonically via teleconference or in person for the interview, and why the applicant should be reappointed to the Commission.
  - c. Submission~~s~~ deadlines are mandatory; no exceptions are permitted.
4. Applications:
  - a. *For adult applicants* — Accept applications, verify eligibility, and distribute copies of the applications of eligible applicants to the Town Council prior to the interviews for appointment.
  - b. *For student applicants* — Accept applications, verify eligibility, and distribute copies of the applications of eligible applicants to the Town Council Selection Committee, consisting of the Mayor, Vice Mayor, Police Chief, and Youth Commission Chair (if not reapplying), prior to the interviews for appointment.
5. Notify the applicant by letter or email as to the date and time of the interview and provide the option for an in person or teleconference interview.
6. Facilitate the Council voting process set forth below by informing the Council as to how many votes are possible on each Commission, calling out applicants' names, and identifying the applicants receiving sufficient votes for appointment. This voting process does not apply to ~~student~~ Youth Commission or Finance Commission applicants.
7. Applicants:
  - a. *For adult applicants* — After the interviews and the Council votes~~s~~ are completed, notify all applicants of the Council's action, and explain the Town's policy of keeping applications~~s~~ active for one year with notification of subsequent openings on that Commission to the interested applicants.
  - b. *For ~~student~~ Youth Commission applicants* — After the interviews are completed, notify all applicants of the Council Committee's action, and prepare a staff report for the Town Council to ratify the Committee's appointment at the first Town Council meeting in June.

## Interview Process

To ensure the interview process is consistent, fair, and equitable, each applicant shall be asked the same standard questions, as provided below. Notwithstanding, no Council Member shall be prevented from asking appropriate questions of applicants.

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1. If appointed, what ideas would you like to see the Commission explore?
2. Please expand beyond the written response on your application: your experience, interest, and/or expertise that you feel would be most useful to the Commission.
3. Please elaborate on any written response provided in the application to assist the Council learn more about you.
4. If you did not answer any of the questions on the application, please explain why.

The standard questions are limited in number to allow an applicant sufficient time to respond. While the intent is for each Council Member to be able to ask one question of each applicant, the Council may decide not to ask all of the provided questions, change the order of the questions, or rotate which Council member asks a specific question. Applicants will be given a two-minute time limit to answer each question.

### **Balloting Process**

Unless determined otherwise, the Council shall conduct a ballot vote for the appointment of individuals to fill the vacancies for each Commission with the exception of the Finance Commission. Such ballot vote may be conducted at either a regular, adjourned, or special meeting of the Town Council. The ballot vote process shall be conducted as follows:

1. The Town Clerk shall provide a ballot to each Town Council member listing the names of all applicants and “None of the above” for each respective Commission. Prior to the vote, the Town Clerk shall publicly announce the position vacancy and all applicant names that are listed on the ballot.
2. Each Council member may vote for the same number of applicants as there are current vacancies on the respective Commission. In no case, can a Council Member cast more votes than there are vacancies; or vote for the same candidate more than once on each ballot (i.e. cumulative voting -- e.g. where there are three vacancies, a Council member may not give all three votes to the same candidate). A Council Member is not required to vote for any of the candidates or for the total number of vacancies available.
3. The Town Clerk shall collect all ballots and shall publicly announce the name of each Town Council member and how that Council member cast his or her vote. In the case of a tie vote, the Town Clerk will announce that there is a tie and that a run-off vote shall be conducted but will not announce the names of the applicants in the run-off. Once all voting is concluded and a decision made, the votes will be made public. The run-off ballot will also include a “None of the above” option.
4. Applicants receiving a majority number of votes shall be deemed appointed to the Commission. In the event of a tie, a run-off vote shall be conducted among the applicants receiving the highest number of votes from the previous round. This shall continue until a majority consensus on an applicant(s) is reached for the number of vacancies to be filled. In the event of an unbreakable tie, the Council may determine an alternative method for selecting the appointee(s) or direct the Town Clerk to re-advertise the vacancy.

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5. If an applicant(s) is appointed to an ~~Advisory Body~~Commission ~~which-that~~ has vacancies for both full and partial, unexpired terms, the length of the appointee's term will be determined by the Mayor.

## **B. Mid-Term Recruitments**

During the year, Commissions may experience vacancies that drop the number of filled seats to a number of members that is not sufficient to conduct Commission business. The Commission may request the Council to conduct a mid-term recruitment to fill seats. To the extent possible, the Town Clerk will consolidate mid-term recruitments to minimize the number of recruitments occurring throughout the year. In the event of a vacancy on the Planning Commission, the Town will automatically conduct a mid-term recruitment. Mid-term recruitments will not be conducted for Youth Commissioners. The Town Clerk shall advertise mid-term vacancies on Commissions for at least 15 days.

### **Responsibility and Action: Applicant**

1. Read the Commission Appointments, Residency and Attendance Requirements, and Establishing a Quorum Policy, complete and submit to the Town Clerk the application for appointment to a Town Commission by the advertised deadline date and time.
2. *For adult applicants:* Attend the Council meeting to be interviewed for the Commission appointment. The applicant is required to notify the Town Clerk no later than 4:00 p.m. ~~the Friday~~ three business days before the scheduled interview date whether they will not attend in person or via teleconference.
3. *For student applicants:* Attend the Council Selection Committee interview session. The applicant is required to notify the Town Clerk no later than 4:00 p.m. the three business days ~~Friday~~ before the scheduled interview date whether they will not attend in person or via teleconference.
4. If an incumbent ~~Commission member~~Commissioner is requesting reappointment to the same Commission and is not available on the date of the interview, the incumbent must submit a letter by 4:00 p.m. the three business days ~~Friday~~ prior to the interviews, describing the reason why the applicant cannot be present via teleconference telephonically or in person for the interview, and why the applicant should be reappointed to the Commission.
5. If appointed, prior to starting the Commission term, appointees are required to attend a Commissioner Orientation and take the "Oath of Office."
6. Attend ~~Advisory Body~~Commission meetings once term begins.
7. Read the Commissioners' Handbook available online. ~~Hard copies of the Handbook are to be returned to the Town Clerk when the term is complete.~~

### **Responsibility and Action: Town Council**

1. Review applications.

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2. *For adult applicants* – Interview applicants ~~individually~~ by Commission at a public meeting with all applicants present.  
*For student applicants* – Town Council Selection Committee interviews applicants.
3. Determine if the incumbents not in attendance and having submitted a letter pursuant to this Policy should be considered for reappointment.
4. If there are limited applications for any vacancy to a Commission, the Mayor, on behalf of the Council, may request that the Town Clerk re-advertise the vacancy, reschedule the interviews, and notify all applicants of the new interview date.

### **COMPLIANCE - GROUNDS FOR DISMISSAL/REAPPOINTMENT GUIDELINES**

~~A member~~ An individual who has been ~~may be~~ removed from ~~at the Advisory Body~~ Commission ~~prior to the end of his or her term by a three-fifths (3/5) vote of the Town Council and~~ for the following reasons, may not be reappointed ~~for the following reasons~~:

~~1. Failure to attend Advisory Body meetings.~~

~~2.1.~~ 1. Failure to file the following documents required by the Fair Political Practices Commission (Adult Commissioners):

- a. Form 700 – Assuming Office, Annual, and Leaving Office when term is complete.
- b. Planning Commissioners are also required to complete AB 1234 Ethics Training and file the original certificate with the Town Clerk every two years.

~~3.2.~~ 2. Failure to comply with all Town Policies, Guidelines, and Handbooks.

### **CONFLICT OF INTEREST**

Under the Fair Political Practice Act, a ~~n advisory board member~~ Commissioner has a disqualifying conflict of interest in a governmental decision if it is foreseeable that the decision will have a financial impact on his or her personal finances or other financial interests. In such cases, there is a risk of biased decision-making that could sacrifice the public's interest in favor of the official's private financial interests. To avoid actual bias or the appearance of possible improprieties, the public official is prohibited from participating in the decision.

The Fair Political Practice Act does not prohibit a ~~n advisory board member~~ Commissioner from participating in a decision simply by virtue of holding a position as a board member, director, officer, or employment with a nonprofit corporation. However, the Town strongly encourages that in the event that a decision concerns a nonprofit corporation for which a ~~n advisory board member~~ Commissioner is a board member, director, officer, or employed with that nonprofit corporation, the person should recuse him or herself and at a minimum shall disclose the potential conflict of interest before any discussion and decision.



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APPROVED AS TO FORM:

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Gabrielle Whelan, Town Attorney