

Sample Language for Terms of Planning Commissioners

City of Modesto – Seven members with staggered four year terms. Requirement that member be a registered elector within the city.

SECTION 1102. - APPOINTMENTS. TERMS.

The members of each of such boards or commissions shall be appointed by the Council. They shall be subject to removal, by resolution of the Council adopted by at least four (4) affirmative votes. The members thereof shall serve for a term of four (4) years and until their respective successors are appointed and qualified.

The members first appointed to such boards and commissions shall so classify themselves by lot that each succeeding January 1 the term of one of their number shall expire. If the total number of members of a board or commission to be appointed exceeds four (4), the classification by lot shall provide for the grouping of terms to such an extent as is necessary in order that the term of at least one (1) member shall expire on each succeeding January 1, and that the number of terms expiring in any year does not exceed by more than one (1) the number expiring in any other year

City of Turlock: Seven members with optional 2 alternates. Members must be city residents and must immediately cease their membership if they move. 4 year terms (2 years for alternates). Full members term limit of 12 years and alternates term limit of 4 years.

2-2-201 Membership.

(a) Members. The Planning Commission shall consist of seven (7) members appointed by the Mayor with the approval of the Council.

(b) Alternate members. The Mayor, with the approval of the City Council, may appoint two (2) alternate members to the Commission. An alternate Commissioner shall serve as a voting member in the absence of a regular member.

(c) Qualifications. Only residents of the City of Turlock shall be eligible for appointment to the Planning Commission. If, during his or her term on the Commission, a Commissioner ceases to reside within the City limits, such seat on the Commission shall immediately become vacant.

(1119-CS, Amended, 05/14/2009; 1084-CS, Amended, 05/24/2007; 1081-CS, Amended, 03/29/2007; 1011-CS, Amended, 02/12/2004; 632, Amended, 12/01/1960; 398, Enacted, 07/18/1946)

2-2-202 Membership: Term.

(a) Members. Of the members first appointed to the Planning Commission, one (1) shall be appointed for a term of one (1) year, two (2) for terms of two (2) years, two (2) for

terms of three (3) years, and two (2) for terms of four (4) years. Their successors shall be appointed for terms of four (4) years.

(b) Alternate members. The alternate members shall be appointed for a term of two (2) years beginning April 1st.

(c) Limitations: Members. The terms for members of the Planning Commission shall be limited to a maximum of twelve (12) consecutive years or until the completion of the term if the twelve (12) year period falls within an unexpired term of a member. In determining the maximum term of a member of the Planning Commission, any time served as an alternate member shall not be counted.

(d) Limitations: Alternate members. The terms for alternate members shall be limited to a maximum of four (4) consecutive years or until the completion of the term if the four (4) year period falls within an unexpired term of an alternate member.

(1119-CS, Amended, 05/14/2009; 243-CS, Amended, 04/15/1976; 632, Amended, 12/01/1960; 398, Enacted, 07/18/1946)

City of Eureka – Five members with staggered four year terms.

§ 33.005 APPOINTMENTS: TERMS.

(A) The members of each such board or commission shall be appointed by the Mayor with the approval of the Council. The members thereof shall serve for a term of four years and until their respective successors are appointed and qualified.

(B) The members first appointed to such boards and commissions shall so classify themselves by lot that each succeeding January 1 the term of one of the members shall expire. If the total number of members of a board or commission to be appointed exceeds four, the classification by lot shall provide for the grouping of terms to such an extent as is necessary in order that the term of at least one member shall expire on each succeeding January 1, and that the number of terms expiring in any year does not exceed by more than one the number expiring in any other year.

('63 Code, § 2-1.105) (Ord. 2876, passed 7-18-61; Am. Ord. 644-C.S., passed 5-15-01)

City of Galt – Five members with one non-voting alternate, unless a member is missing. Commissioner servers terms concurrent with appointing council member of 4 years, staggered.

Section 2.28.020 Composition -appointment of members.

The planning commission shall consist of five members and one alternate member. The five members shall be appointed in the following manner: each council member shall appoint one commissioner who shall serve at the pleasure of the appointing council member with the term of

office for each commissioner to be concurrent with that of the appointing council member. The alternate shall be appointed by the council as a whole and shall serve at the pleasure of the city council. The city manager shall assign the duties of secretary to the commission to an employee pursuant to section 2.16.070. (Ord. 2002-17, Amended, 12/17/2002, § 1 part; Ord. 92-05 § 1: Ord. 86-7 § 1: Ord. 7915 § 1: Ord. 110 § 2, 1965: prior code § 2701).

Section 2.28.040 Terms of members-absence from meetings.

A. The five regular members and the alternate member of the planning commission shall serve for a period of four years in staggered terms. In the case of a vacancy, a successor shall be appointed by the appropriate council member for the remaining period of that member's term.

B. The alternate member will attend the meetings of the planning commission, without the right to vote unless a regular member of the planning commission is absent, in which case the alternate member has the right to vote as a regular member.

C. Commission members who are unable to attend a regularly scheduled or special meeting shall notify the planning commission chairperson or in that person's absence, the vice-chair or secretary to the planning commission, advising them of the reason for their absence.

D. The secretary to the commission shall record and transmit the attendance of all commission members for regular and special meetings on a quarterly basis or other specified period to the city council for informational purposes. (Ord. 2002-17, Amended, 12/17/2002, § 2 part; Ord. 88-03 § 1: Ord. 87-6 § 1: Ord. 79-15 § 2: Ord. 110 § 6, 1965: prior code § 2704)

City of San Fernando – Five members who are registered voters and city residents with 1 year term that shall continue beyond one year until replaced by the assigned city councilmember or until that commissioner resigns.

Sec. 62-27. - Composition and appointment of members.

The planning and preservation commission shall be composed of five members, each with full participation and voting rights. Such members shall be registered voters and city residents. Each member shall be appointed by a different appointing councilperson, with such appointment to be ratified by the city council.

(Ord. No. 1586, § 1, 3-16-2009)

Sec. 2-36. - Term of commissioners.

The term of office for each commission member shall be one year; however, each member shall continue in the position beyond one year until replaced by the assigned city councilmember or until the member resigns.

City of Paradise – Five members “residing within the boundaries of the town.” 4 Year terms with staggered dates of expiration of terms.

2.12.030 - Established—Composition—Terms. A planning commission is created for the town. The planning commission shall consist of five members who reside within the boundaries of the town. They shall be appointed by the town council for a term of four years with staggered dates of expiration of terms. (Ord. 342 §1, 2000: Ord. 218 §3 (part), 1992)

EL Cerrito

2.04.220 - Boards, commissions and committees.

- A. Boards, commissions and committees are appointed by the council to advise and to perform any duties determined by the council in one or more aspects of city government. Except as otherwise provided in state law, boards and commissions are directly responsible to the council and fill quasi-judicial roles. Commissions are made up of lay citizens, while boards are residents with special expertise. Committees sponsored by the city are intended to be working groups, do not fill quasi-judicial roles, and are established by council resolution. Appointment to boards and commissions shall be made only after:
 - 1. Advertisement of the open position in a local paper;
 - 2. Public interviews of applicants for the positions;
 - 3. Appointment by a majority of the council.
- B. Unless determined elsewhere in law, the boards and commissions shall be governed by or meet the following criteria:
 - 1. Membership. The boards and commissions shall consist of seven members each, who shall be residents of the city, unless otherwise provided in this chapter. A "member" shall be defined as a voting member of any board, commission or committee established by the city council, notwithstanding the manner in which such voting member is appointed.
 - 2. Appointments. The members shall be appointed by majority vote of the council. Members shall not be reappointed to the same board or commission for more than two consecutive full terms.
 - 3. Term. Terms are four years, commencing on January 1st unless a member is removed from office pursuant to the provisions of subsection B4 of this section. The membership shall be divided into four, approximately equal groups, appointed in consecutive years. If a board member or commissioner fails to complete the term, the council appointment shall be for the remainder of the uncompleted term. Members are not eligible to serve on the same board or commission if they have served two consecutive full four-year terms.
 - 4. Removal of Members.
 - a. Members of boards and commissions serve at the pleasure of the council and may be removed by a majority vote of the entire council. It shall be presumed that any

member who is absent for three consecutive regularly scheduled meetings without cause, or half the regular meetings in a calendar year, or who resides outside the city, has resigned. The staff liaison shall notify the city clerk of a vacancy within five days after the staff liaison has determined that the vacancy exists. Within one week after receiving such notice from the commission liaison, the city clerk shall notify any member whose appointment has automatically terminated and report to the council that a vacancy exists and that an appointment should be made to fill the vacancy.

- b. An absence shall be considered excused if either: (1) the member informs the staff liaison of his or her intended absence at least twenty-four hours prior to the scheduled time of the meeting, or (2) such absence is due to unforeseeable and unavoidable circumstances and reported and explained in writing to the staff liaison prior to the next meeting of the board or commission. Excused absences for reasons shall not exceed a period of one hundred twenty calendar days.
 - c. Nothing contained in this section shall be deemed to limit the power of the city council to remove any member of any city board, commission or committee at any time, with or without cause.
5. Quorum. A quorum of the board or commission shall consist of a simple majority of the appointed members.
 6. Officers. At the first meeting of each calendar year, the board or commission shall select its officers. These shall consist of a chairperson (chair) and a vice chairperson. (Ord. 2007-11 § 1, 2007: Ord. 92-2 Div. 2 (part), 1992.)

City of Selma

2-1-2: ORGANIZATION; TERMS; COMPENSATION:

The planning commission shall consist of seven (7) members to be appointed by the city council. The planning director shall provide technical assistance and serve as secretary to the commission; the city attorney, city manager, and city engineer shall be available for consultation and technical support as needed.

Vacancies for any unexpired term shall be filled by appointment of the city council for the portion of the unexpired term only. Appointments for a new term of office shall be for four (4) years and shall begin on July 1 and end on June 30.

The compensation of each member of the planning commission is hereby fixed at the sum of fifty dollars (\$50.00) per meeting for which the commission member is in attendance. Compensation may be hereafter set by resolution of the city council.

The member of the planning commission appointed, or selected by his or her colleagues, as chairperson shall also serve simultaneously for his or her full term as an ad hoc member of the Selma personnel commission to serve as a member of that commission,

attend its meetings and participate in its proceedings, if and when requested to do so by the chairperson of the Selma personnel commission. (Ord. 2009-5, 6-1-2009)

2-1-8: RESIDENCY:

Members of the commission shall be residents of this city, "provided, however, that this requirement shall not apply to current terms of members of the commission". (Ord. 825, 4-20-1981)

City of Millbrae

2.10.010 Creation – Members – Term – Vacancy.

A planning commission is created and shall consist of five members who shall be appointed by the city council and serve at the council's pleasure from the qualified electors of the city, none of whom shall hold any paid office or employment in the city government. Each member shall serve for a term of four years commencing on July 1st and continuing until his or her respective successor is appointed and qualified. The four-year terms of the commission members shall be staggered. In order to achieve staggered terms, half of the members first appointed to the commission shall be assigned by lot a term for two years and the other half of the commission members shall be assigned by lot a term for four years. All members must remain residents of the city while serving on the planning commission. The members shall not receive any compensation for their attendance of commission meetings or any other services rendered as a commission member; provided, however, that any actual and necessary expenses incurred by a commission member in the performance of his or her duties on the commission may be ordered paid by the city council. Any vacancy occurring other than by expiration of a term of office shall be filled by appointment for the unexpired portion of the term. (Ord. 664-A, § 2; Ord. 3, §§ 1 – 4, Amended by Ord. 47, § 1; Ord. 177, § 1; Ord. 217, § 1; Ord. 251, § 1 and Ord. 354, § 3; 1976 Code § 2-2.101; 1966 Code § 2100).

Legal Issues Regarding Ordinance 95-09

The City of Riverbank passed Ordinance 95-09 on August 29, 1995, eliminating the position of Alternate Planning Commissioner. On November 25, 1996, the City passed Ordinance 96-07, reducing the number of commissioners to 5 and revising the residency requirements. The issue presented is whether the current position of Alternate Planning Commissioner is in contravention of the 1995 Ordinance (or in the alternative, the 1996 Ordinance). I believe there is no issue with Ordinance 95-07, as Ordinance is been repealed by Ordinance 99-09, which established a book or organized code of ordinances.

Section 3 of Ordinance 99-09 states:

“All prior ordinances pertaining to the subjects treated in such Code of Ordinances shall be deemed repealed from and after the effective date of this ordinance except as they are included and reordained in whole or in part in such Code; provided, such repeal shall not affect any offense committed or penalty incurred or any right established prior to the effective date of this ordinance, nor shall such repeal affect the provisions of ordinances levying taxes, appropriating money, annexing or detaching territory, establishing franchises, or granting special rights to certain persons, authorizing public improvements, authorizing the issuance of bonds or borrowing of money, authorizing the purchase or sale of real or personal property, granting or accepting easements, plat or dedication of land to public use, vacating or setting the boundaries of streets or other public places; nor shall such repeal affect any other ordinance of a temporary or special nature or pertaining to subjects not contained in or covered by the Code.”

The language in Ordinance 95-09 was not included or reordained in whole or in part in the Section 32.36, the current language of the Planning Commission code. In addition, Ordinance 95-09 does not fit into any of the provided exclusions for automatic repeal. Therefore, I believe Ordinance 95-09 is effectively repealed and has no force or effect.

Nevertheless, the current code language does state “five voting members.” There is no language for a sixth voting member. To the extent there has been more than five voting members, then we would potentially have a problem.