

City of Alameda



OPEN GOVERNMENT COMMISSION
2263 Santa Clara Avenue, Suite 380
Alameda, CA 94501
(510) 747-4800

Thank you for your interest in the implementation of the City of Alameda Sunshine Ordinance.

The Sunshine Ordinance adopted by the City Council of the City of Alameda declares that:

- (a) Government's duty is to serve the public, reaching its decisions in full view of the public.
- (b) Elected City officials, commissions, board, advisory bodies, task forces and other agencies of the City exist to conduct the people's business. This Ordinance is intended to assure that the deliberations of these bodies and the City's operations are in full view of the public.

The role of the Open Government Commission is to advise the City Council and provide information to other City departments on appropriate ways in which to implement the Ordinance. The Commission is responsible for developing appropriate goals to ensure the practical and timely implementation of the Ordinance and to report to the Council on practical or policy problems encountered in the administration of the Ordinance. The Commission also decides complaints of violation of the Ordinance.

If you have encountered problems regarding compliance with the Ordinance, the Public Records Act or the Ralph M. Brown (Public Meetings) Act, we ask that you fill out the attached complaint form. Please deliver the form to: **City Clerk, City Hall, 2263 Santa Clara Avenue, Suite 380, Alameda, CA 94501. A complaint must be filed no more than fifteen (15) days after an alleged violation of the Sunshine Ordinance.**

We attempt to resolve complaints informally where possible, through the affected departments and the City Attorney's office. Matters, which cannot be resolved, or that involve substantial policy considerations, will be set for hearing no later than thirty (30) business days after the complaint is filed.

NOTICE: Personal information that you provide may be subject to disclosure under the California Public Records Act and the Sunshine Ordinance. You may list your business/office address, telephone number and e-mail address in lieu of your home address or other personal contact information.

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SUNSHINE ORDINANCE COMPLAINT

Complaint against which Department or Commission: _____

Name of individual contacted at Department or Commission: _____

- ☐ Alleged violation of public records access.
☐ Alleged violation of public meeting. Date of meeting: _____

Sunshine Ordinance Section: _____
(If known, please cite specific provision(s) being violated)

Please describe alleged violation. Use additional paper if needed. Please attach all relevant documentation supporting your complaint. Documentation is required.

A complaint must be filed no more than fifteen (15) days after an alleged violation of the Sunshine Ordinance.

Name: _____ Address: _____

Telephone No: _____ E-mail Address: _____

Date: _____

Signature

City of Alameda Sunshine Ordinance Open Government Commission PUBLIC COMPLAINT PROCEDURE

Consistent with the language and spirit of the City of Alameda Sunshine Ordinance (Ordinance) to provide the most open government possible (see Alameda Municipal Code Chapter II, Article VIII, Sections 2-90 through 2093), all inferences and evidence shall be viewed in the light most favorable to the petitioner.

The Open Government Commission (OGC) has an obligation under Alameda Municipal Code Section 2-93 to respond to public complaints.

A. Inquiries in Person or by Phone:

It is the goal of the OGC is to help the public gain access to public records and meetings. The staff of the OGC will therefore work with members of the public to help achieve such access in order to avoid the need for filing complaints with the OGC.

1. The Administrator shall discuss the request with the member of the public and attempt, with the assistance of the City Attorney, to mediate the request.

2. If unable to facilitate access to a desired record or to a public meeting, the OGC staff shall advise the member(s) of the public of his/her right to file a petition with the OGC and to pursue the complaint process, and shall send the complainant a packet of information regarding the complaint process.

B. Filing a Complaint with the OGC.

1. A complaint form may be submitted to the OGC via mail, fax or electronic mail (e-mail), or in person. If a complaint letter is received, the Administrator shall provide complainant with a complaint form for completion and submission to the City Clerk's office. Once filed, a complaint shall be sent to the Chairs of the full Open Government Commission and the City Attorney.

2. **A complaint must be filed no more than fifteen (15) days after an alleged violation of the Sunshine Ordinance.**

3. **Hearing Schedule:**

If the responding City department (respondent), or the City Attorney, do not contest jurisdiction, or there is no request for a pre-hearing conference to focus the complaint or otherwise assist the parties to the complaint, a hearing will be scheduled no later than thirty (30) business days after the complaint is received. During this hearing the Commission will provide the parties with the chance to present evidence and make arguments. The Commission will render a formal written decision on the matter within fourteen (14) business days of the conclusion of the hearing.

4. The Administrator shall advise the complainant and the affected department of the date, time and location of the OGC meetings at which the complaint will be discussed.

5. No complaint will be accepted by the Commission against a member of the City Council or an officially declared candidate within forty-five (45) days of a City election.

6. **Complaint Committee Hearings:**

(a) The City Attorney shall provide a written opinion to the Complaint Committee as to whether the OGC has jurisdiction over the complaint.

(b) The Complaint Committee shall review a complaint where jurisdiction is contested or a pre-hearing conference is requested at its next meeting and recommend whether the OGC has jurisdiction. The Committee shall also focus the issues for the complainant, respondent and OGC, or otherwise assist the parties.

(c) When the Complaint Committee recommends accepting jurisdiction, it shall do so at the next regular OGC meeting unless this would result in a violation of the 45 day time limit (30 business days to schedule hearing and 14 business days to resolve issue) for resolving complaints; in such case, a special meeting shall be called to hear the matter. The complainant may waive the 45-day rule or request a special hearing within the 45-day period.

7. Continuances:

(a) A complainant may waive the 45-day rule and if a request for continuance is submitted at least three business days in advance of the scheduled hearing, it shall be granted. For requests submitted less than three business days in advance or for requests for subsequent continuances, the request shall be granted by a simple majority vote of the members present.

(b) If a respondent submits a request for continuance at least three business days in advance, upon agreement of the complainant the continuance shall be granted. If the complainant does not agree to the continuance, the request for continuance is not made within three business days, or the respondent is requesting a subsequent continuance, such continuance shall be granted by a simple majority vote of the members present.

C. Public Hearing Procedure

If jurisdiction is not contested or the Complaint Committee recommends jurisdiction, the complainant and respondent shall receive a written notice of the specific issues that shall be before the OGC for a hearing, and they shall be advised to submit any evidence no later than 5 working days prior to the hearing.

Documentation

For a document to be considered, it must be received at least 5 working days before the hearing. At the hearing before the OGC, should the complainant submit additional documentation that has not been submitted to all parties, he/she shall be given the following options:

- (1) Proceed with the hearing without OGC consideration of the additional documentation;
- (2) Waive his/her right to a hearing within 45 days and ask for the hearing to be continued;
- (3) If the additional documentation raises a new issue, the complainant may proceed with the hearing and file a new complaint on the additional issues, or withdraw and amend the complaint to include the new issues.

D. Hearing and Findings of the OGC

1. Prior to the meeting, the City Attorney shall prepare an instructional letter to assist the OGC in understanding the issues. All members of the OGC are responsible for being familiar with the complaint issues prior to the meeting.

2. The OGC shall conduct the public hearing with the complainant and respondent present.

3. After hearing all testimony, the OGC shall vote on an Order of Determination stating whether the record is public and/or whether the open meetings laws were obeyed.

4. After the OGC determines whether a violation of the Ordinance has occurred, the complainant and respondent shall be notified in writing.

E. Reconsideration of the OGC Findings

1. Within 10 days of issuance of the Order of Determination, either the complainant or respondent may petition the OGC for a reconsideration only if information exists that was not available at the time of the hearing.

2. The OGC shall consider the petition at its next scheduled meeting. If a petition for reconsideration is granted, a new hearing on the complaint shall be scheduled at the next OGC meeting.

F. Department to Comply with Determination of the OGC

1. The Administrator shall send the Order of Determination to the complainant and respondent and request a written response within 5 days, which shall be monitored by the OGC. If a public records violation is found, the custodian of records shall be ordered to provide the record to the complainant within 5 days after the issuance of the Order of Determination. The OGC shall review whether there has been compliance with the Order of Determination.

G. Documentation and Information Regarding Individual Complaints

1. The Administrator shall keep a file of all documents and a log of all petitions filed with the OGC, including the date of each petition, the department/agency which it was made, the nature of the complaint and its status. This shall be in compliance with its records and retention schedule.

2. Copies of all correspondence relating to a complaint shall be sent to all parties.

3. A complaint must be filed no more than fifteen (15) days after an alleged violation of the Sunshine Ordinance.

Frequently Asked Questions?

Where can I obtain a copy of the City of Alameda's Sunshine Ordinance?

You can get a copy of the Sunshine Ordinance from the Open Government Commission by calling (510) 747-4800 or from the City's website at <http://www.ci.alameda.ca.us>.

Can you give me some information about the Open Government Commission?

The Open Government Commission shall meet regularly once per month. The role of the Open Government Commission is to ensure that the requirements of the Sunshine Ordinance are met.

What is the Sunshine Ordinance?

The Sunshine Ordinance is an ordinance to insure easier access to public records and to strengthen the open meeting laws. It is an affirmation of good government; and a continued commitment to open and democratic procedures. The Sunshine Ordinance also ensures that the citizens of Alameda has timely access to information, opportunities to address the various legislative bodies prior to decisions being made, and easy and timely access to all public records.

What are the open meeting requirements?

Meetings that are open to the public are posted on the City's website, the City's cable channel and posted at the Alameda Public Library, 12 days prior to meetings of the City Council and 7 days prior to all other policy body meetings. All open meetings are subject to the requirement that the public is entitled to comment on each item.

How do I make a public records request?

While not required, a written request is recommended in order to create a paper trail for the convenience and reference of the requestor.

When does the City have to respond to my public records request?

The City has 10 days to respond to a public records request. If the Custodian of Records believes the record requested is exempt from disclosure, he/she will state in writing the express provisions of law that justify withholding the record. If the requested records are voluminous, in off-site storage or several different departments have the records, the time to respond to the request can be extended by the City responding in writing to the requestor within 3 business days that additional time is needed. Citizens may also make an "Immediate Disclosure Request".

Departments must respond to Immediate Disclosure requests within 3 business days unless the requestor is advised in writing within 2 business days that additional time is needed because of the volume of records sought.

I made a public records request and did not receive the records. What should I do?

You should first follow up with the department to ensure that the request was received. If the department still has not responded, you should contact the Open Government Commission at (510) 747-4800.

Can the City charge me for copies of documents?

No fee shall be charged for making public records available for inspection or for a single copy of a current meeting agenda. A fee may be charged for non-digital copies of requested documents at a rate of **10 cents per page**. If requested records can be made available in electronic format, they will be provided as such at no cost. Electronic documents will be delivered via e-mail or by posting on the City website. Additional fees may apply for postage or other services such as a request for certified copies.

What documents are exempt from disclosure?

Under the California Public Records Act and the City of Alameda Sunshine Ordinance, some records are exempt from disclosure. Examples of records that do not have to be disclosed are:

- Personnel records
- Medical records
- Home telephone numbers and addresses
- Social Security numbers
- Documents subject to the attorney-client privilege
- Trade secrets
- Documents protected from disclosure by the State Constitutional Right to Privacy
- Certain law enforcement records
- Records protected from disclosure by state and federal laws

How do I file a complaint with the Open Government Commission?

You may fill out a Complaint Form and submit it to the Open Government Commission and the City Attorney at 2263 Santa Clara Avenue, Suite 380, Alameda, CA 94501 (510) 747-4800. **A Complaint must be filed no more than fifteen (15) days after an alleged violation of the Sunshine Ordinance.** Once your complaint is received, the Open Government Commission verifies that the Open Government Commission has jurisdiction. The complainant is then notified if the Open Government Commission has jurisdiction, and if so, the complaint is scheduled for a hearing before the next meeting of the Commission.

Can I audiotape, videotape or take photographs at a public meeting?

Yes, provided that the meeting is not disrupted.

Can I get a copy of the audiotape or videotape of a board or commission meeting?

The audio and video recordings made at the direction of a policy body shall be a public record subject to inspection pursuant to the California Public Records Act (Government Code Section 6250) and shall not be erased or destroyed. Inspection of any such recording shall be provided without charge on an appropriate play back device made available by the City.

Can I get a copy of the minutes for a board or commission meeting?

Yes. The draft minutes of each meeting will be made available for inspection and copying upon request no later than 10 working days after the meeting. The officially adopted minutes shall be available for inspection and copying no later than 10 working days after the meeting at which the minutes were adopted.