

Resolution No. 2012-026 N.C.S.  
of the City of Petaluma, California

**ESTABLISHING A POLICY GOVERNING THE USE OF ELECTRONIC  
COMMUNICATIONS AND DATA DEVICES BY CITY LEGISLATIVE BODIES,  
SUBJECT TO THE BROWN ACT DURING PUBLIC MEETINGS**

**WHEREAS**, advances in technology allow use of electronic messaging, data processing and other functions on portable electronic communications and data devices which are generally intended for viewing primarily or solely by the individual using the device; and

**WHEREAS**, portable electronic communications and data devices allow electronic messaging, data processing and other functions to be carried out during public meetings by individual legislative body members without necessarily making messages and other information available to other members of legislative body and/or the public; and

**WHEREAS**, the City Council desires to permit and promote utilization of technology to ensure efficient and effective conduct of the people's business, in accordance with applicable law, and to reduce cost, waste and environmental impacts from printed copies of legislative body agenda materials; and

**WHEREAS**, the City Council desires to ensure full compliance with the mandates of the California Constitution, art. I, §3(b)(1) and the Public Records Act and Ralph M. Brown Act regarding public access to government information and the open and public nature of public meetings; and

**WHEREAS**, the City Council desires to ensure that adjudicatory hearings conducted by City legislative bodies proceed in the manner required by law, including consistent with due process rights of interested parties;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Petaluma as follows:

1. The City Council permits and promotes the utilization of technology to ensure efficient and effective conduct of the people's business, in accordance with applicable open meetings and records laws, due process rights of interested parties, and other applicable law and city policy, and in the interest of reducing waste, supply costs and environmental impacts.
2. The use of portable electronic communications and data devices, including, but not limited to, laptop computers, cell phones, tablet computers, pagers, and similar devices, by members of City legislative bodies subject to the Brown Act during the public meetings of the body shall be limited as prescribed in this policy and applicable law.
3. Use of portable electronic communications and data devices by members of City legislative bodies subject to the Brown Act during public meetings of the body shall comply with the requirements of all applicable laws and City policies, including the requirements of Article I, section 3, subdivision (b) paragraph 1 of the California

Constitution, the California Public Records Act (Gov't. Code §6250-6276.48), the Ralph M. Brown Act (Gov't. Code §§54950-54963), due process rights of interested parties in City legislative body proceedings, and the following City policies and procedures.

4. Members of City legislative bodies subject to the Brown Act may not use portable electronic communications and data devices at public meetings of the body in any manner or for any purpose prohibited by law or City policy. In particular, but without limitation, electronic communications and data devices may not be used at public meetings by City legislative body members in any of the following ways:
  - a. in violation of the requirements of the Ralph M. Brown Act, such as by sharing communications among a majority of the legislative body privately and separate from the public discussion at the meeting.
  - b. in violation of the requirements of the California Public Records Act, such as by transmitting to a majority of the legislative body information connected with a matter subject to consideration at the meeting, which information is not available to the public.
  - c. in violation of due process rights of interested parties at adjudicatory hearings, such as by consideration of information not a part of the hearing record, or by use of an electronic communications and data device so as to result in inattention to the record and/or proceedings before the body.
5. In addition to the restrictions on the use of electronic communications and data devices by City legislative body members under the Ralph M. Brown Act, the California Public Records Act, and the due process guarantees under the U.S. and California Constitutions, members of City legislative bodies subject to the Brown Act may not:
  - a. during a meeting of the body, receive electronic communications from, or send electronic communications to, any person, (including, but not limited to, members of the public, city staff, other legislative body members, and parties to city proceedings) except as permitted in Section 6, below.
6. Members of City legislative bodies subject to the Brown Act may use electronic communications and data devices at public meetings of the body to receive and send communications regarding emergencies, such as family emergencies. Members receiving/sending such communications should coordinate with the member presiding over the meeting as needed under the circumstances so as to respond to the emergency as needed and to ensure compliance with open meeting, open records, due process and other applicable laws, rules and policies, including this policy.
7. City staff are authorized and directed to ensure that the requirements of this policy are incorporated into the procedural rules and enabling legislation of City legislative bodies subject to the Brown Act when such rules and legislation are next reviewed and updated. Until such time as the procedural rules and enabling legislation of City legislative bodies subject to the Brown Act are next reviewed and update, this policy shall be deemed incorporated in and applicable to the procedural rules and enabling

legislation of all City legislative bodies subject to the Brown Act. Such bodies will conduct their business consistent with the requirements of this policy, and may adopt or enact no rule, policy, procedure or practice that conflicts with any of the requirements of this policy. Any such rule, policy, procedure or practice that conflicts with any of the requirements of this policy shall be void and of no effect.

8. This resolution shall become effective on its adoption.

9. All portions of this resolution are severable. Should any individual provision or portion of a provision of this resolution be adjudged to be invalid and unenforceable, the remaining provisions and portions of provisions shall be and continue to be fully effective, except as to the provision(s) and/or portion(s) of provisions that have been judged to be invalid.

Under the power and authority conferred upon this Council by the Charter of said City.

**REFERENCE:**

I hereby certify the foregoing Resolution was introduced and adopted by the Council of the City of Petaluma at a Regular meeting on the 5<sup>th</sup> day of March, 2012, by the following vote:

Approved as to  
form:

City Attorney

**AYES:**

Albertson, Barrett, Mayor Glass, Harris, Healy, Kearney, Vice Mayor Renée

**NOES:**

None

**ABSENT:**


None

**ABSTAIN:**

None

**ATTEST:**

  
City Clerk

  
Mayor