



El Cerrito City Council Administrative Policies and Rules of Order and Procedure

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El Cerrito City Council Administrative Policies and Rules of Order & Procedure

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SECTION ONE: PREAMBLE

I. CITY COUNCIL AUTHORITY

The purpose for establishing City Council Administrative Policies and Protocols is to provide an effective environment for the City Council to provide leadership. This document may be amended by a majority vote of the City Council and should be reviewed on a regular basis to ensure that the document remains helpful to the Council in providing a framework for effective leadership. For the purpose of this document, a “Policy” is the protocol, principle or rule that guides City business and serves as a framework for the City Council to use. Until such time as they are amended or new rules are adopted by resolution, these rules shall prevail to govern the order and conduct of business of the City Council and other legislative bodies that meet concurrently with the City Council. The rules and procedures set forth herein are not exclusive and do not limit the inherent power and general legal authority of the City Council, or of its Mayor, to govern the conduct of City Council meetings as may be considered appropriate from time to time or in particular circumstances for purposes of orderly and effective conduct of the affairs of the City. A majority of the City Council present at a City Council meeting shall have the authority to waive provisions of the policy and procedures unless otherwise required by law.

SECTION TWO: ADMINISTRATIVE POLICIES

II. CITY COUNCIL CODE OF CONDUCT

Members of City Council shall abide by the following code of conduct. Members shall:

- 1) Work for the common good of the people of El Cerrito and not for any private or personal interest.
- 2) Endeavor to treat all members of the public and issues before them in a fair and equitable manner.
- 3) Make impartial decisions, free of bribes, unlawful gifts, narrow political interests and financial or other personal interests that impair independence of judgment or action.
- 4) Decisions will be fair, objective, made in public (unless allowed or required to be made in closed session), and understandable.
- 5) Fully participate in their meetings and other public forums while demonstrating respect and courtesy to others, practicing civility and decorum in discussions and debate, listening courteously and attentively, and engaging in effective communication. Members of City Council are expected to contact the City Manager or the City Clerk if they cannot attend a scheduled meeting.

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- 6) Act in an efficient manner, making decisions based upon research and facts in accordance with the Brown Act to allow full and equal participation in the public process.
- 7) Refrain from abusive conduct, personal charges or verbal attacks upon the character, motives, ethics or morals of other members, staff or members of the public. Refrain from negative comments regarding any person or group based on their race, ethnicity, sex, gender, sexual orientation, national origin, immigration status, religion, disability, age, marital status, or membership in any other protected category.
- 8) Respect and preserve the confidentiality of information provided to them concerning confidential matters of the City, and refrain from disclosing any information received confidentially without proper legal authorization nor use such information to advance the personal, financial, or private interests of themselves or others.
- 9) Use their title only when conducting official City business, for informational purposes, or as an indication of background and expertise, carefully considering whether they are exceeding or appearing to exceed their authority.
- 10) Respect established channels of communication with City staff, treat staff members professionally, and not attempt to pressure or influence discussions, recommendations, workloads, schedules or department priorities without the approval of a majority of the City Council providing direction directly to the City Manager.
- 11) In unofficial settings, members of City Council shall be clear in representing to the public, other agencies, and the media whether their comments or statements represent the official position of the City or a personal viewpoint.

In addition, the Councilmember appointed to the role of Mayor shall be clear in making oral or written public statements that they represent their personal viewpoint as the Mayor, or upon approval of a majority of the City Council, represent the viewpoint of the full City Council. The Mayor shall report out at a City Council Meeting, any statements made representing the viewpoint of the full City Council.
- 12) Complete 2 hours of Ethics Training in compliance with AB1234 every two years for the duration of their term.
- 13) Complete 2 hours of Sexual Harassment Prevention Training in compliance with AB1661 every two years for the duration of their term.

III. SELECTION OF CITY COUNCIL OFFICERS

At the first regular City Council Meeting in December of each year or when appropriate, the City Council shall select from among its members a Mayor and a Mayor Pro Tempore (Mayor Pro Tem) to serve for the following year in accordance with the following process:

A newly elected Councilmember, who is not an incumbent, will serve a minimum of one year on the City Council before qualifying to serve as Mayor.

Mayor Pro Tem will replace the outgoing Mayor.

Mayor Pro Tem will be the Councilmember who has received the highest number of votes, compared to the other Councilmembers elected at the same time. Preference will be given to those who have not yet served as Mayor. This process continues until all Councilmembers elected in the same year have served as mayor.

An appointed Councilmember shall join the rotation only after first being elected.

Newly elected and re-elected Councilmembers are added onto the existing order of rotation in the order of the number of votes received, from the highest number of votes to the lowest.

A Councilmember may decline to serve as Mayor or Mayor Pro Tem. This will drop the Councilmember back one position in the rotation.

This format will be followed unless altered by a majority vote of the City Council. The City Council has the ultimate discretion to elect or not elect any Councilmember for any office.

The new Mayor and Mayor Pro Tem shall take office upon a majority vote of the Council. The term of office for the Mayor and Mayor Pro Tem shall be for one calendar year or until the next rotation occurs.

At any time during the term of office for a Mayor or Mayor Pro Tem, an agenda item may be requested by vote of a majority of the City Council to consider removal of a Mayor or Mayor Pro Tem from their appointed role. Subsequently, the formal action of removing a member from their appointed role shall require the vote of a super majority. In the case of removal, the City Council shall select a new member to complete the remaining term of office in place of the removed member.

IV. COMMUNICATION WITH CITY ADMINISTRATION

Except for the purpose of inquiry, the City Council shall deal with City employees, solely through the City Manager. When a Councilmember requires information involving more than a simple answer, the request shall be referred to the City Manager. No individual City Councilmember shall give orders to any subordinates of the City Manager either publicly or privately or discuss the performance of any City employee with any person other than the City Manager.

V. COMMUNICATION WITH THE PUBLIC

Public service is the first duty of all City Officials, and the public is best served when it is treated well. Councilmembers should always clearly demonstrate their respect for members of the public, both in word and in action. This means keeping communication flowing smoothly and efficiently, giving members of the public feedback on their ideas, treating all sides fairly, understanding there may be something to learn from the public, and always being as encouraging and constructive as possible.

When using social media, Councilmembers must clearly disclose that they are expressing their own personal opinion, and not an official position of the City. When appropriate, posting a disclaimer to this effect is advised.

Councilmembers must also use caution when communicating on social media in that it does not become a conduit to communicate with fellow Councilmembers regarding City business.

No member of the City Council shall issue any press release or formal statement on behalf of the City without the express approval of the City Manager. The Councilmember appointed to the role of Mayor shall be clear in making oral or written public statements that they represent their personal viewpoint as the Mayor, or upon approval of a majority of the City Council, represent the viewpoint of the full City Council. The Mayor shall report out at a City Council Meeting, any statements made representing the viewpoint of the full City Council.

VI. CITY COUNCIL EXPENDITURES

The City Council recognizes the value and benefits to the City when Councilmembers attend meetings and functions for the purpose of advancing knowledge and information relating to municipal government. The City Council also recognizes the obligation to be accountable to the public when attending functions at City expense as set forth by the Policy Regarding Reimbursement and Use of Public Resources (Reimbursement Policy), adopted by Resolution.

Expenses related to local liaison appointments are typically covered in the City Council budget. However, if a Councilmember makes the decision to represent the City Council in other capacities, related expenses are not expressly authorized for reimbursement.

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During the budget setting process, the City Council shall review the budget allocated for travel & training, as well as events & field trips and make a determination as to the amount of money allocated to each Councilmember for reimbursement of such activities. Each Councilmember will then have the discretion to determine how to use their allocation of funds, in compliance with the Reimbursement Policy.

Whenever a Councilmember, at City expense, participates in any travel for City business or for City-related educational purposes, he or she shall provide a brief oral or written report (including the purpose of the trip and any observations that may be of value to the City) at the next regular City Council meeting. If any Councilmember fails to adhere to this Section, a majority of the City Council may, after discussion at an open session of the City Council:

- 1) Order that the City withhold any and all unpaid expense reimbursements related to the trip until such time as the report is properly filed and accepted by a majority of the City Council; and
- 2) Limit or prohibit the expenditure of City funds for said Councilmember to travel or attend any function of any kind, whether within the state or out-of-state, for a term to be determined by a majority of the City Council in each instance.

A Councilmember may request a City issued device for the purpose of conducting official City business. In general, no one Councilmember shall be issued more than one device. Any additional requests for issuance of a device shall require prior approval by the City Council.

SECTION THREE: RULES OF ORDER AND PROCEDURE

VII. DUTIES

A. Duties of Mayor and Mayor Pro Tempore

The Mayor is recognized as the official head of the City for all ceremonial purposes and shall preside at the meetings of the City Council and preserve strict order and decorum at all regular and special meetings of the Council. The Mayor shall state every question coming before the Council. The Mayor shall announce the decision of the City Council on all subjects, and decide all questions of order and subject, however, to an appeal to the Council, in which event a majority vote of the City Council shall govern and conclusively determine such question of order. When a motion is made, it shall be stated by the Mayor or the City Clerk before debate.

The Mayor, unless unavailable, shall sign all ordinances, resolutions, proclamations and any other documents that have been adopted by the City Council and require an official signature, except when the City Manager has been authorized by City Council action to sign documents. In the event the Mayor is unavailable, the Mayor Pro Tem's signature may be used. The Mayor Pro Tem shall perform the duties of the Mayor during the Mayor's absence. In the event the Mayor and Mayor Pro Tem are absent, the Councilmember with the longest years of City Council service will serve as Mayor Pro Tem.

The City Council seating order shall be at the discretion of the Mayor. The Mayor Pro Tem is traditionally seated immediately to the left.

City Council liaison assignments are traditionally made at the second meeting in December by the Mayor.

Liaison assignments include appointment of a Councilmember to each Board, Commission and Committee. Council liaisons shall conduct business in accordance with [Resolution 2013-68](#) regarding Council and Staff Relations with City Commissions, Boards, Committees and Task Forces.

The City Clerk will maintain and keep on file a list of Standing Committees, Ad Hoc Committees, regional agencies and organizations, and joint powers agencies to which Councilmembers are appointed.

B. Duties of Councilmembers

Promptly at the time established by ordinance on the date of each regular meeting, members of the City Council shall take their regular stations in the Council Chambers and the business of the City Council shall be taken up for consideration and disposition.

C. Decorum by Councilmembers

While the City Council is in session, Councilmembers must respect the Mayor's authority to conduct each meeting and preserve order and decorum. A member shall not, by conversation or otherwise, delay or interrupt the proceedings or the peace of the City Council nor disturb any member while speaking, nor refuse to obey the orders of the Council, or the Mayor, except as otherwise herein provided. Members shall make the public feel welcome, value each other's time and respect each other's opportunity to speak while attempting to build consensus on an item through an opportunity for dialogue; but when this is not possible, the majority vote shall prevail and the majority shall show respect for the opinion of the minority.

D. Voting Disqualification

Any Councilmember shall not vote upon any matter on which the member is disqualified due to a conflict of interest, or any quasi-judicial action regarding that in which the Councilmember is biased. No member of the City Council who is disqualified shall vote upon the matter on which he or she is disqualified. Any member shall openly state or have the Mayor announce the fact and nature of such disqualification in the open meeting and shall not be subject to further inquiry. A member who is disqualified by conflict of interest shall leave the dais during the debate and must not vote on such matter. This shall not prohibit the member from remaining in the Chamber as a member of the public to hear other testimony and to provide their own testimony to the City Council as a member of the public. The member may remain on the dais for Consent Calendar items if the member states that they are abstaining from the vote due to the described conflict of interest before the Consent Calendar is voted on in one motion.

E. Requests for Technical Assistance and/or Reports

A majority vote of the City Council shall be required to direct the City Manager to provide technical assistance, develop a report, initiate staff research, or respond to requests for information or service generated by an individual Councilmember.

VIII. MEETINGS

F. Call to Order - Presiding Officer

The Mayor, or in the Mayor's absence, the Mayor Pro Tem, shall take the chair precisely at the hour as stated on the agenda and shall immediately call the meeting to order, unless a preceding meeting runs past the stated start time of the meeting. Upon the arrival of the Mayor, the Mayor Pro Tem shall immediately relinquish the chair at the conclusion of the business presently before the Council. In the absence of the two officers specified in this section, the Councilmember present with the longest period of City Council service shall preside.

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G. Roll Call

A majority of the members of the City Council in office shall constitute a quorum. Before the City Council shall proceed with the business of the Council, the City Clerk shall call the roll of the members and the names of those present shall be entered in the minutes. The later arrival of any absentee shall also be entered in the minutes.

H. Quorum Call

During the course of the meeting, should the Mayor note a City Council quorum is lacking, the Mayor shall call this fact to the attention of the City Clerk. The City Clerk shall issue a quorum call. If a quorum has not been restored within three minutes of a quorum call, the meeting shall be deemed automatically adjourned.

I. Council Meeting Schedule

Regular meetings of the City Council as established by ordinance, shall be held generally on the first and third Tuesday of each month taking into consideration holidays and election dates as specified in El Cerrito Municipal Code Section 2.04.010 and 2.04.040.

Regular City Council meetings, in accordance with the time established by ordinance, shall commence at 7:00 p.m. City Council meetings may be scheduled and noticed concurrently with meetings of the El Cerrito Municipal Services Corporation, El Cerrito Public Financing Authority and/or the El Cerrito Employees' Pension Trust Board.

The agenda for the regular business meetings shall include the following: Pledge of Allegiance (or moment of silence), Ceremonial Items (as needed); City Council and City Staff Communications; Oral Communications from the Public; Presentations, Consent Calendar (including Information Reports); Public Hearings; and Policy Matters (Appeals, Old Business, New Business). Workshops and Study Sessions may be included as part of the Presentation or Policy Matter Calendar or scheduled and noticed as separate special meetings. Upon request by the Mayor or any Councilmember, any item may be removed from the Consent Calendar. At the discretion of the Mayor, any item removed from the Consent Calendar may be discussed and voted on prior to or immediately after voting on the Consent Calendar.

Any item not considered or withdrawn from the agenda will automatically be carried over as Old Business to the next regular business meeting unless another date is set by the Council.

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Public Hearings may be placed on the agenda for a regular business meeting. When a public hearing is expected to be contentious and lengthy and/or the Council's regular meeting schedule is heavily booked, the Council, in conjunction with the City Manager and their staff, may schedule a special meeting exclusively for the public hearing. No other matters shall be placed on the agenda for the special meeting. All public comment will be considered as part of the public hearing and no separate time will be set aside for public comment not related to the public hearing at this meeting.

Special meetings may be called by the Mayor at any time or by a majority of members at a duly noticed meeting of the Council. Written notice must be given to the City Council and to the media 24 hours prior to a special meeting. Notice requirements of the Brown Act shall be complied with for all meetings.

Closed sessions may be held at any time authorized by law, to consider or hear any matter which is authorized by law. The Mayor or any three Councilmembers may call a closed session.

J. City Council Recess Periods

A recess period is defined as a period of time longer than 21 days without a regular or special meeting of the City Council.

During any recess period, the City Manager is authorized to take such ministerial actions for matters of operational urgency as would normally be taken by the City Council during the period of recess except for those duties specifically reserved to the City Council by the Municipal Code, and including such emergency actions as are necessary for the immediate preservation of the public peace, health or safety; and the authority to extend throughout the period of time established by the City Council for the period of recess.

The City Manager shall make a full and complete report to the City Council at its first regularly scheduled meeting following the period of recess of actions taken by the City Manager pursuant to this section, at which time the City Council may make such findings as may be required and confirm said actions of the City Manager.

IX. AGENDA

K. Declaration of Policy

No ordinance, resolution, or item of business shall be introduced, discussed or acted upon by the City Council at its meeting without being published on the agenda of the meeting and posted in accordance with this section. Exceptions to this rule are limited to emergency matters and items carried over, as defined in Section L.

L. Definitions

For purposes of this section, the terms listed herein shall be defined as follows:

"Agenda Item" means an item placed on the agenda for a vote by the City Council. For purposes of this section, appeals shall be considered action items. All information from the City Manager or Department Director concerning any item to be acted upon by the City Council shall be submitted as a report on the agenda and not as an off-agenda memorandum and shall be available for public review, except to the extent such report is privileged and thus confidential such as an attorney-client communication concerning a litigation matter or any other matter deemed a closed session matter as allowed under the Brown Act.

Agenda items shall contain all relevant documentation, including the following as applicable:

- 1) A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested;
- 2) Whether the matter is to be presented on the Consent Calendar, Presentations, Public Hearings or Policy Matters;
- 3) Recommendations of the City Manager or their staff, if applicable containing the recommended action to be taken by the City Council with respect to that particular item, and the rationale for the recommendation;
- 4) Fiscal impacts of the recommendation;
- 5) A description of the current situation and its effects;
- 6) Background information as needed;
- 7) Alternative actions considered (if applicable);
- 8) For awards of contracts; the abstract of bids in those cases where such is required;

"Agenda" means the compilation of the descriptive titles of agenda items submitted to the City Clerk, arranged in the sequence established in Section P.

"Packet" means the agenda plus all its corresponding agenda reports and attachments.

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"Emergency Matter" arises when prompt action is necessary due to the disruption or threatened disruption of public facilities and a majority of the City Council determines that:

- 1) a work stoppage or other activity which severely impairs public health, safety, or both;
- 2) a crippling disaster which severely impairs public health, safety or both.

Notice of the Council's proposed consideration of any such emergency matter shall be given in the manner required by law for such an emergency pursuant to Government Code Section 54956.5.

"Old Business" Items carried over from a prior agenda of a meeting as uncompleted items.

M. Procedure for Bringing Matters before City Council

1) Requesting Matters for Placement on the Agenda

Matters for the agenda may be requested by any member of the City Council and requires approval of the Mayor for placement on the agenda. Matters requested by City staff are approved by the City Manager.

Items Authored by the City Staff.

Agenda reports shall be reviewed by the City Manager. The City Manager can recommend that the matter be referred to a commission or back to the originating department for adherence to required form, additional analysis, or suggest other appropriate action including scheduling the matter for a later meeting to allow for appropriate revisions. The City Manager in consultation with the Mayor determines placement and timing of items on the Agenda.

Items Submitted by Boards and Commissions.

Recommendations submitted by boards, commissions and committees are submitted through the staff liaison and must follow procedures and timelines for submittal of reports as established by resolution or administrative procedure. The City Manager may, at their discretion, prepare a companion report and analysis of a board or commission's recommendation.

2) Emergency and Non-Agendized Items.

Emergency and non-agendized items may be added to an agenda only in accordance with state law. Emergency items are only those matters affecting public health or safety such as work stoppages, disasters and other severe emergencies that severely impair the public health and/or safety qualify for emergency meetings.

Adding an emergency item requires a four-fifths vote of the Council. Emergency items are very rare. More likely, after the agenda is posted, an item arises that the City Council would like to act on. Non-agendized items may be added to the agenda only if the City Council makes findings that 1) the need to consider the item arose after the posting of the agenda; and 2) there is a need to take immediate action at this meeting of the City Council. These findings must be approved by a four-fifths vote; if less than five members of City Council are present, the findings require a unanimous vote of those present.

3) Scheduling Public Hearings Mandated by State, Federal, or Local Statute

The City Clerk may schedule a public hearing at an available time and date in those cases where State, Federal or local statute mandates the City Council hold a public hearing.

4) Submission of Agenda Items

Except for Old Business, as a condition to placing an item on the agenda, agenda items from departments, including agenda items from commissions, shall be furnished to the City Clerk at a time established by the City Manager. The City Manager has set a deadline of 12:00 p.m. on Monday eight days prior to the regular City Council Meeting at which the item is to be presented. If Monday falls on a holiday, the agenda item shall be submitted to the City Clerk on the preceding Thursday, twelve days before a meeting.

5) Proclamations

Ceremonial proclamations are often requested of the City in recognition of an event or individual. Proclamations are not statements of policy but a manner in which the City can make special recognition of an event (e.g., Earth Day) or individual. The Mayor, without formal action of the City Council, may review such requests and make the determine as to whether any recognition will be given and what form that recognition will take (for example, Certificate of Appreciation, Certificate of Recognition, Certificate of Commendation, Proclamation, or Resolution). Individual Councilmembers do not have the authority to issue proclamations. Certificates and Proclamations may be sent directly to the requestor or presented at a City Council meeting as arranged with the requesting body and at the Mayor's discretion.

6) Formal City Council Positions

Formal support or opposition by the City Council for any form of a legislative platform, specific legislation or other matters shall be approved by a majority of the City Council. Any individual Councilmember may request the Mayor for approval to add an item to the agenda for consideration.

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The Mayor shall report out at a City Council Meeting, any statements made representing the viewpoint of the full City Council.

The City Council shall not take action on any matter that has no direct effect on the local affairs of the City of El Cerrito and over which the City, as a California municipal corporation, has no jurisdiction. The requesting Councilmember shall furnish with the request, proposed language in the form of a letter, resolution, or other documentation that provides a direct connection or effect on the City El Cerrito.

7) Scheduling a Presentation

Any request for a presentation to the City Council will be submitted as an agenda item and follow the timelines for submittal of agenda reports. Presentations are also scheduled as necessary to recognize persons or groups, or to promote events. Ceremonial requests are reviewed by the Mayor.

Any request for a presentation should include general information regarding the purpose and content of the presentation; information on the presenters; contact information; and the length of the presentation. The City Manager will review the request and recommend a presentation date and allotted time based on the Council's schedule.

The City Clerk will notify City staff responsible for the presentation or the presenters themselves of the date and time of the presentation and will coordinate use of any presentation equipment and the receipt of additional electronic or written material for transmittal with the agenda packet.

N. Packet Preparation and Posting

1) Preparation of the Packet

Not later than the Thursday prior to the City Council Meeting, the City Clerk shall prepare the agenda packet, which shall include the agenda plus all of its corresponding agenda reports and attachments. No item shall be considered if not included in the packet, except that a correction or supplement to an item already included in the packet may be considered. Reports carried over as Old Business shall be reproduced again at the City Manager's discretion.

2) Distribution and Posting of Agenda

The City Clerk shall post each agenda for a City Council regular meeting no less than 72 hours in advance of the meeting and shall post each agenda for a special meeting no less than 24 hours in advance of the meeting online and in the official bulletin board and at any other locations specified by ordinance or resolution.

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The City Clerk shall maintain an affidavit indicating the location, date and time of posting for each agenda. The City Clerk shall also post agenda packets, minutes and all legal notices for City Council meetings on the City's website.

Not later than the third day prior to said meeting, copies of the agenda shall be sent by the City Clerk to any resident of the City of El Cerrito who so requests in writing. Copies shall also be available free of charge in the City Clerk's Office.

3) Distribution of the Packet

Not later than the third day prior to said meeting, the City Clerk shall distribute the packet to each member of the City Council and place a packet for public review at the El Cerrito Library. The agenda packet will also be made available to members of the press upon request and will be posted on the City's website.

Any supplemental materials distributed to members of the City Council after the posting of the agenda will be available for public review in the City Clerk's Office and at the City Council meeting. If supplemental materials are made available to the members of the City Council at the meeting, a copy will be available for public review in the City Council Chambers. All supplemental materials shall be posted online after the meeting.

4) Failure to Meet Deadlines

The City Clerk shall not accept any agenda item or revised agenda item after established deadlines unless authorized by the City Manager.

Matters not included on the published agenda may not be discussed and acted upon unless otherwise authorized by State law or providing the City Council finds one of the following conditions is met:

- a) Four-fifths of the City Council determines that the subject meets the criteria of "Emergency" as defined in Section M.
- b) Four-fifths of the City Council determines that there is a need to take immediate action and that the need for action came to the attention of the City subsequent to the posting of the agenda as required by law.

O. Agenda Sequence and Order of Business

The Mayor or City Manager may re-order the agenda prior to its publication in the interests of accommodating public comment or public hearing testimony, the appearance of elected officials, or the conservation of resources. The City Council agenda for a regular business meeting shall generally be arranged in the following order:

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- 1) Roll Call
- 2) Pledge of Allegiance (or moment of silence)
- 3) Preliminary Matters: (Ceremonial, Reports of Closed Session, City Council and City Staff Communications)
- 4) Oral Communications (General public comment and comments relating to the Consent Calendar and items which do not otherwise appear on the Agenda. Public Comments relating to items on the action calendar are presented at the time the City Council discusses each action item.)
- 5) Presentations (May include Proclamations, Awards, Workshops and Study Sessions.)
- 6) Consent Calendar (including Minutes, Proclamations, Routine Matters without controversy and Information Reports)
- 7) Public Hearings
- 8) Policy Matters (including Old Business, New Business, and work sessions which require City Council direction)
- 9) City Council Assignments / Liaison Reports
- 10) Adjournment

A duly noticed closed session may be held at any time during a meeting consistent with applicable law.

X. CONDUCT OF MEETING

P. Comments from the Public

An oral communication period is convened at the beginning of each City Council meeting to provide an opportunity for members of the public to address the City Council on items of interest to the public which are within the subject matter jurisdiction of the Council but not on the agenda, items placed on the Consent Calendar, and Presentation items. Each speaker shall limit their remarks to no more than three minutes.

Public Comment shall be limited to matters on the agenda only for all special meetings.

In order to increase the number of persons who can be heard by the City Council when there are a large number of persons who wish to be heard on one or more matters, the Mayor may make adjustments to these rules, for example, by increasing or shortening the amount of time per speaker, increasing or shortening the total time allotted for public comment or for a subject and/or require the pooling of time per side on a subject.

Speakers are asked to give their names and the city of their residence prior to making their public comments. To expedite the public comment period, the City Clerk will announce the name of the speaker and the city of residence if provided on the speaker card.

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Councilmembers may ask questions, but the City Council shall not discuss or act in connection with a speaker's comments if the subject is not on the agenda for action. A Councilmember may, however, refer a subject to the City Manager or other resources for factual information or for action, if appropriate.

Q. Consent Calendar

There shall be a Consent Calendar on all regular meeting agendas on which shall be included those matters which the Mayor, Councilmembers, and the City Manager deem to be routine and of such nature that no debate or inquiry will be necessary at the City Council meetings. Typical consent calendar items include the final adoption of ordinances, non-policy items, resolutions approving agreements, awards of contracts, minor budgetary adjustments, meeting minutes, status reports, confirmation of committee appointments, proclamations and reports of routine City operations.

City Council Minutes shall be submitted for approval on the Consent Calendar. The primary purpose of the City Council Meeting Minutes shall be to record start and end time, City Council attendance, and the actions taken by the City Council.

It is the policy of the City Council that Councilmembers wishing to ask questions concerning Consent Calendar items should ask questions of the City Manager prior to the City Council meeting so that the need for discussion of consent calendar items can be minimized. This practice allows the City Manager time to notify staff that a presentation of the item may be required.

Upon motion of any member of the Council, all items on the Consent Calendar shall be acted upon together and, if the motion is approved, adopted, or accepted, each item shall be deemed to have received the action recommended.

There will be no separate discussion of matters on the Consent Calendar. A Councilmember may vote "no" or may abstain on any consent calendar item without comment or discussion. Upon request by any Councilmember, any item may be removed from the Consent Calendar. Requests by a member of the public to remove an item from the Consent Calendar shall only be honored if subsequently sponsored by a Councilmember. At the discretion of the Mayor, any item removed from the Consent Calendar may be discussed and voted on prior to or immediately after voting on the Consent Calendar.

R. Information Reports Called Up for Discussion

Reports for Information designated for discussion at the request of any Councilmember shall be added to the appropriate section of the agenda and may be acted upon at that meeting or carried over as pending business until discussed or withdrawn.

S. Communications

Members of the public are encouraged to present written comments to the City Clerk in advance of the meeting, as a way to fully communicate their thoughts on agenda or non-agenda items. This provides the City Council with a greater opportunity to review and consider issues and/or concerns expressed in written communications prior to a meeting. Letters from the public will not appear on the City Council agenda as individual matters for discussion but will be distributed as part of the City Council packet with the exception that communications regarding appeals will be listed on the agenda with the appeal.

All communications regarding an appeal must have been received by the City Clerk no later than the Monday eight days prior to the meeting in order to be included in the agenda packet.

All communications shall be simply deemed received without any formal action by the Council. A Councilmember may refer a communication to the City Manager for action, if appropriate, or request that a consent or action item be prepared for placement on a future agenda.

T. Public Hearings

The City Council, in setting the time and place for a public hearing, may limit the amount of time to be devoted to presentations by the public. Notices of Public Hearings will be posted, published and mailed as required by law. When the Public Hearing is called, staff will summarize the application/project/appeal/matter as contained in the staff report. The City Council may ask questions for clarification. Public Hearings relating to land use and zoning matters or appeals include formal presentations by applicants and appellants.

Anyone desiring to speak to the City Council on the subject of the public hearing are asked to submit a written request to the City Clerk at the meeting at which the public hearing is held. In the conduct of the public hearing, the Mayor may request that those making presentations avoid repetition in order to permit maximum information to be provided to the City Council within the time allotted to the hearing.

Speakers may testify on public hearing matters only during the designated public hearing and not as part of Public Comment. The City Clerk will call out speaker names in the same order as speaker cards are received. The City Council may allow the elderly, disabled and those with childcare needs to speak early during public hearings.

When all parties have been heard and there are no additional requests to speak, the Mayor shall ask for a motion to close the Public Hearing. Any member of the City Council may make a motion to: a) Continue the Public Hearing to a date certain or uncertain to allow for further study and discussion; or b) Close the Public Hearing and do one of the following: 1) approve the application/project/matter as submitted; 2) conditionally

approve the application/project/ matter with certain revisions or added conditions; 3) remand a land use matter back to the Planning Commission; 4) remand a design matter back to the Design Review Board; or 4) deny the application/project/matter. When more than one public hearing is scheduled, the Mayor may call a City Council recess between the hearings.

U. Work Sessions and Public Discussions

The City Council may from time to time, schedule a matter for general City Council discussion and direction to staff. Official/Formal action on a work session item will take place at the conclusion of the work session or be scheduled on a subsequent City Council agenda. In general, public comment at City Council work sessions will be heard after the staff presentation. At the time the work session discussion is scheduled, the City Council may seek comment from others if they so determine as appropriate.

V. Time Limitations for Public Hearing

Each speaker shall be limited to three minutes with the exception that one representative for an appellant or applicant of an appeal shall be allowed fifteen minutes each for an initial presentation during the public hearing and ten minutes each for rebuttal following the other comments on the matter. No person may speak without first being recognized by the Mayor. The Mayor, subject to alteration by the Council, may establish overall time limits for applicants, appellants and other speakers at public hearings and set up such other procedures that may facilitate the orderly and efficient conduct of such hearings.

Persons who believe they cannot adequately present their testimony or evidence within the time limits provided herein are encouraged to submit their comments in writing to the City Clerk for distribution to the Council. To ensure that these written comments are distributed to the City Council with the agenda staff report and supporting written materials, the City Clerk must receive the written comments by the Monday eight days prior to the City Council meeting at which the hearing is scheduled. If that is not possible, then the written comments should be submitted to the City Clerk at the earliest feasible time prior to the meeting.

W. Public Speaker Protocol

Each person addressing the City Council shall first give their name and city of residence in an audible tone of voice, or through other means as a reasonable accommodation, for the record. All remarks shall be addressed to the City Council as a body and not to any member thereof. No one other than the City Council and the person having the floor shall be permitted to enter into any discussion, either directly or through a member of the Council, without the permission of the Mayor. No question shall be asked of a Councilmember except through the Mayor. Groups and organizations are encouraged to designate a spokesperson whenever possible.

XI. PROCEDURAL MATTERS

X. Persons Authorized to Sit at Presentation Tables

No person, except City officials, their representatives and representatives of boards and commissions and those recognized by the Mayor shall be permitted to sit at the tables in the front of the City Council Dais without the express consent of the Council, or if prearranged with the City Manager as a reasonable accommodation.

Y. Decorum

Councilmembers and staff shall conduct the business of the City of El Cerrito recognizing that stewardship of the public interest must be of primary concern. Working for the common good of the people of the City of El Cerrito assuring fair and equal treatment of all persons and issues which come before the City Council and work earnestly to preserve appropriate order and decorum during all meetings. No person shall disrupt the orderly conduct of the City Council meeting. Prohibited disruptive behavior includes but is not limited to shouting, making disruptive noises, such as boos or hisses, creating or participating in a physical disturbance, speaking out of turn or in violation of applicable rules, preventing or attempting to prevent others who have the floor from speaking, preventing others from observing the meeting, approaching the City Council dais or speaker podium without consent, or refusing to obey the orders of the Mayor or Council. Any message to or contact with any member of the City Council while the City Council is in session shall be through the City Clerk. Neither Councilmembers nor any persons addressing the City Council shall make personal, slanderous, or profane remarks to any member of the Council, staff or the general public.

Noise emanating from the audience within the City Council Chamber or lobby area which disrupts meetings shall not be permitted. All cellular phones and other consumer devices shall be muted while in the Chamber. Refusal shall be grounds for removal.

Z. Enforcement of Decorum

The Mayor may call a recess if a speaker or group of speakers become unruly and/or interferes with the orderly conduct of the meeting. Any law enforcement officers on duty or whose services are commanded by the Mayor shall be Sergeant-at-Arms of the City Council meetings. They shall carry out all orders and instructions given by the Mayor for the purpose of maintaining order and decorum at the City Council meetings. Upon instructions of the Mayor or a majority of the City Council, it shall be the duty of the Sergeant-of-Arms, or any officer present, to escort outside or place under arrest any person who violates the order and decorum of the meeting, and cause them as necessary, to be prosecuted under the provisions of applicable law.

AA. Rosenberg's Rules of Order

Rosenberg's Rules of Order shall apply in all cases except that the Council shall normally attempt to arrive at consensus through discussion before a motion is made.

BB. Motions and Precedence of Motions

When a motion is made, the Mayor should determine if any member of the body wishes to second the motion. In general, the Mayor should not make or second a motion unless they are convinced that no other member of the body will do so. While it is good practice for a motion to require a second, it is not an absolute requirement, and the Mayor can proceed with consideration and vote on a motion with no second. This is a matter left to the discretion of the Mayor.

No more than three motions shall be on the floor at any given time. When there are two or three motions to consider at the same time, the vote shall first be on the most recent motion made. The three basic motions are as follows:

The Basic Motion. One that puts forward a decision for the body's consideration.

The Motion to Amend. A motion to amend takes the basic motion that is before the body and seeks to change it in some way. A motion to amend seeks to retain the basic motion on the floor but modify it in some way.

The Substitute Motion. If a member wants to completely do away with the basic motion that is before the body, they would move a substitute motion. A substitute motion seeks to throw out the basic motion on the floor and substitute a new and different motion to replace it.

CC. Rules of Debate

The basic rule of motions is that they are subject to discussion and debate. The Mayor is free to participate in the debate, however should strive to be the last to speak. The debate can continue as long as members of the body wish to discuss an item, subject to the decision of the Mayor that it is time to move on and take action.

There are exceptions to the general rule of free and open debate on motions. The exceptions all apply when there is a desire of the body to move on. A motion to adjourn, motion to recess, motion to table or motion to limit debate are not debatable (that is, when the following motions are made and seconded, the Mayor must immediately call for a vote of the body without debate on the motion).

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Motion to adjourn. This motion, if passed, requires the body to immediately adjourn to its next regularly scheduled meeting. It requires a simple majority vote. If all items of business have concluded, the Mayor may adjourn the meeting without a motion.

Motion to recess. This motion, if passed, requires the body to immediately take a recess. Normally, the Mayor determines the length of the recess which may be a few minutes or an hour. It requires a simple majority vote.

Motion to table. This motion, if passed, requires discussion of the agenda item to be halted and the agenda item to be placed on “hold.” The motion can contain a specific date/time in which the item can come back to the body or no specific time, in which case a motion to take the item off the table and bring it back to the body will have to be taken at a future meeting.

Motion to limit debate.

As a practical matter, when a member calls out “I move the previous question” or “I move the question” or “I call the question”, the Mayor can treat it as a “request” rather than as a formal motion. The Mayor can simply inquire of the body, “any further discussion?” If no one wishes to have further discussion, then the Mayor can go right to the pending motion that is on the floor.

However, if even one person wishes to discuss the pending motion further, then the Mayor should treat the call for the “question” as a formal motion and should ask for a second, stop debate, and vote on the motion to limit debate. The motion to limit debate requires a two-thirds vote of the body.

DD. Voting

It is the policy of the City Council that all members present at a meeting fully participate in the discussion of a matter and shall vote for or against a motion, unless disqualified by conflict of interest or other legal reason. Votes are counted for “those present”, therefore if a Councilmember abstains from voting, their vote shall be counted as a “No” vote for the purpose of determining if the motion passes. Failure of a seated member to orally express a vote constitutes an affirmative vote. No ordinance, resolution, recommendation or motion shall be passed or become effective without an affirmative vote by the majority with a quorum present.

If the vote is a voice vote, the Mayor shall declare the result for the record. The Mayor may also request a vote by roll call. Vote by roll call is required for any meeting in which any member is participating via teleconference. Regardless of the manner of voting, the results reflecting all yes and no votes and the Councilmembers who cast them must be clearly set forth for the record. To be adopted, a motion requires the yes vote of a majority of the quorum present, unless the vote of four or five Councilmembers is required by statute, ordinance, or resolution.

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If a member is disqualified, the member shall not participate in the consideration of the matter, shall not be counted for the purpose of the quorum, and shall leave the dais during the consideration of the matter; provided, however that if the matter is being considered on the Consent Calendar and has not been removed, from the Consent Calendar, the Councilmember may remain on the dais and disclose the reason for disqualification.

A tie vote is equivalent to a motion that has failed and means no action has been taken. Should a tie vote occur, the City Council may make additional motions until an action receives three affirmative votes. If no motions are made, then the tie vote shall be treated as no action and the Mayor may treat the matter as concluded and move on to the next item on the agenda. If the matter involves an appeal, and an affirmative vote does not occur, the result is that the decision appealed stands as decided by the decision-making person or body from which the appeal was taken.

EE. Addressing the Council

The purpose of addressing the City Council is to communicate formally regarding matters that relate to City Council business or citizen concerns within the subject matter jurisdiction of the City Council. Any person desiring to address the City Council shall first secure the permission of the Mayor to do so. Comment and testimony are to be directed to the Mayor and Council. Dialogue between and inquiries from citizens at the lectern and individual Councilmembers, members of staff, or the seated audience is not permitted. Under the following headings of business, unless the Mayor rules otherwise, any qualified and interested person shall have the right to address the City Council in accordance with the following conditions and upon obtaining recognition by the Mayor:

- 1) **Written Communications.** Interested parties or their authorized representatives may address the City Council by written communications in regard to matters of concern to them. Communications received by the City Clerk prior to close of business on the day of a City Council meeting shall be duplicated and submitted to the City Council at the meeting if related to an item which is on the agenda for that meeting. Written materials brought to the meeting for distribution to the City Council shall be provided with no less than 7 copies to the City Clerk who will retain an original copy for the record. Parties that display models and large exhibits may withdraw them. The City Clerk can request that substitute photographs be submitted as part of the record.

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- 2) **Public Hearings.** Interested persons or their authorized representatives may address the City Council by reading protests, petitions, or communications relating to matters then under consideration. Once the public hearing has been closed, no member of the public shall be permitted to address the City Council or the staff from the audience, except at the discretion of the Mayor.

- 3) **Oral Communications.** Members of the public wishing to speak to the City Council are requested to complete, and turn into the City Clerk prior to the item being called, a speaker slip indicating the agenda item or subject matter on which they wish to speak. Public comment relating to presentation items, consent calendar items, or City business that is not otherwise listed on the agenda are heard at the beginning of the meeting. Public comment relating to any other item listed on the agenda are received at the time that item is taken up for consideration by the Council. No person shall address the City Council without first being recognized by the Mayor. Any person wishing to address the City Council is requested to complete a speaker card with their name, city of residence and/or organization and submit to the City Clerk before the Mayor calls for Oral Communications or calls for public comment on a particular agenda item.

If a member of the public desires to present written communications to the City Council during the City Council meeting, the communication shall be submitted to the City Clerk. Members of the public are requested to provide 7 copies of each written communication so that sufficient copies are available for review during the meeting by the City Council, City Staff, and members of the public.

Videos, PowerPoint or similar presentations may accompany in-person testimony but are subject to the discretion of the Mayor and the same speaking time limits. Prior notice of at least 72 hours and coordination with the City Clerk is required and the Mayor reserves the privilege to limit such requests as necessary for the effective conduct of the meeting.

State law prohibits the City Council from taking action on any item not listed on the Agenda unless the City Council makes a determination that an emergency exists or that the need to take immediate action on the item arose subsequent to the final posting of the agenda.

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- 4) **Speaker Decorum.** Speakers are to address their comments to the City Council from the podium. Each person addressing the City Council shall do so in an orderly manner and shall not engage in conduct that disrupts, disturbs, or otherwise impedes the orderly conduct of the City Council meeting. Staff shall only respond to public comment or inquiry if requested to do so by the Mayor. Any person, who so disrupts the meeting shall, at the discretion of the Mayor or a majority of the Council, be subject to removal from that meeting. Any speaker who violates the rules of order and decorum or who fails to heed a warning from the Mayor or law enforcement official will be escorted out of the City Council Chambers and may be placed under arrest.
- 5) **Time Limit.** While the City Council encourages and embraces the need for and right of public participation, it acknowledges that public comments must be limited in the interest of fairness to other persons wishing to speak and to other individuals or groups having business before the City Council. Each speaker shall limit comments to three minutes. If a large number of people wish to speak, this time may be shortened by the Mayor so that the number of persons wishing to speak may be accommodated within the time available. Two opportunities for the public to speak on the same issue will not be permitted unless mandated by state or local law.
- 6) **Yielding of Time.** It is understood that a person making a request to speak does so on their own behalf. For this reason and to guarantee all persons an ample opportunity to be heard, all speakers will be recognized for the same amount of time. No speaker will be allowed to yield all or part of their time to another, and no speaker will be credited with time requested but not used by another.
- 7) **Addressing the City Council after Motion Made**
When a motion is pending before the Council, no person other than a Councilmember shall address the City Council without first securing the permission of the Mayor or City Council to do so.

FF. Adjournment

In order to allow for thoughtful, clear-headed consideration of City business by the public and the City Council, all City Council meetings shall adjourn no later than 11:00 p.m. If a City Council meeting is continued past 11:00 p.m., the Mayor should ensure that the meeting is adjourned no later than midnight. Extension of a meeting to finish on-going business shall require a motion to suspend City Council policy to a time certain and vote by a majority vote of the City Council.

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If the Council has pending business at the time of adjournment, the City Council may adjourn to a convenient, additional session to complete work on the agenda, or the unfinished business may be allowed to carry over to the next regular meeting.

XII. FACILITIES

GG. Use of City Council Chambers

City staff is responsible for maintaining a calendar on the use of the City Council Chamber and all requests for reservations shall be cleared through the City Manager's Office. Use of the City Council Chamber by the City Council shall take precedence over any other use. Service of food or drink within the Council Chamber shall not be allowed.

HH. City Council Chamber Capacity

City Council Chamber attendance shall be limited to the posted seating capacity thereof. Entrance to City Hall will be appropriately regulated by the City Manager on occasions when the City Council Chamber capacity is likely to be exceeded. While the City Council is in session, members of the public shall not remain standing in the City Council Chamber except to address the City Council and sitting on the floor shall not be permitted. The City Council proceedings may be conveyed by live television broadcast in the City Council Chamber Vestibule, City Hall Lobby, Hillside Conference Room or by loudspeaker to those who have been unable to enter the Council Chambers.

II. Alternate Facilities for Council Meetings

The City Council shall approve in advance a proposal that a City Council meeting be held at a facility other than the City Council Chambers.

If the City Manager has reason to anticipate that the attendance for a meeting will be substantially greater than the capacity of the City Council Chambers and insufficient time exists to secure the approval of the City Council to hold the meeting at an alternate facility, the City Manager shall make arrangements for the use of a suitable alternate facility to which such meeting may be recessed and moved, if the Mayor authorizes the action.

If a suitable alternate facility is not available, the City Council may reschedule the matter to a date when a suitable alternate facility will be available.

Alternate facilities are to be selected from those facilities previously approved by the City Council as suitable for meetings away from the City Council Chambers.

SECTION FOUR: ENFORCEMENT OF POLICIES AND PENALTIES FOR OTHER MISCONDUCT BY MEMBERS

The City Council acknowledges that members will not always agree on matters of public policy and that they will have different styles of communicating with each other and the public. Those kinds of differences can result in tensions between members. The City Council values a respectful working relationship among the members. When tensions between members occur, the City Council strongly encourages members to speak directly to each other in an effort to resolve the matter to maintain the ability of the City Council to work collectively for the public benefit. The process described below is intended to address violations of the City Council policies and other forms of misconduct, and not to be a method of resolving disagreements between members of the City Council.

The City Council also acknowledges that members retain the constitutional rights to free speech, and that as elected officials, they have an obligation to speak publicly about matters of concern to constituents. The procedures are not intended to limit the rights and obligations of Councilmembers. They are not intended to penalize legitimate disagreements about matters of public policy. They are intended to apply to the speech and actions of Councilmembers only to the extent that a Councilmember's speech or actions violate these policies or constitute misconduct.

The procedures in this section shall apply in the following three situations: (1) When any member of the City Council reasonably believes that another member of the City Council has acted in violation of this policy. (2) When a member of the City Council has been convicted of a crime. (3) When a decision maker with competent jurisdiction has issued a final determination that a member of the City Council has violated a law related to the conduct of public business.

Examples of laws related to the conduct of public business include, without limitation, the Brown Act; the Political Reform Act and related Fair Political Practices Commission regulations; Government Code section 1090 and related provisions of the Government Code; and other California laws establishing requirements for or limitations on the activities of local government elected officials. The procedures in this section shall apply to (2) and (3) only after the exhaustion or expiration of all available appeals. For the purposes of this section, "misconduct" refers to either (2) or (3), or both.

The process described in this section is applicable only to assertions made by one member of the City Council against another. It does not apply to a complaint against a member of the City Council by a member of the public or by an employee or official of the City. Complaints against a member of the City Council by a member of the public or an employee or official of the City will be handled through other processes, as required by law or other City policy.

Any Councilmember may request the City Attorney to deliver a general reminder to the entire City Council that a particular type of behavior is a violation of this policy, and that violations, could cause a member to be subject to the penalties described in this section.

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Any Councilmember may privately admonish another Councilmember if they believe a violation has occurred.

Any Councilmember who believes that another Councilmember has violated these policies or committed misconduct may file a written complaint with the City Manager and/or the City Attorney. For the purposes of this section, any complaint which names more than one Councilmember shall be considered a separate complaint for each named Councilmember. Once a formal complaint has been filed, the following process shall be followed:

1. Within 10 days of receipt, the City Attorney shall provide written notice to the accused Councilmember, providing the opportunity to respond to the complaint in writing.
2. The accused Councilmember shall have 10 days from receipt of written notice to respond to the complaint in writing.
3. The written complaint and response shall be presented to the full City Council at the next available meeting under Policy Items.
4. The City Council shall review each complaint, the response, and any information provided in support of each Councilmember's position. If the subject of the complaint is the Mayor, the Mayor Pro Tempore shall preside over the matter. The Councilmember who filed the complaint shall not preside over the matter. All members of the City Council may participate in consideration of and vote upon a complaint. The interest of the Councilmember who filed the complaint and the Councilmember who is the subject of the complaint shall not be treated as disqualifying. Any action on a complaint shall require a majority vote of those participating. The City Council may take the following actions on a complaint:
 - a. No action.
 - b. Public admonishment orally or in writing.
 - c. Determine that additional information is necessary to make a decision.
 - i. In this case, the City Council may direct the City Manager and City Attorney to assist them in retaining an appropriate investigator to gather more information and evaluate the information obtained.
 - ii. Prior to a final investigation report being presented to the City Council the accused Councilmember and the Councilmember who filed the complaint shall have 10 days from receipt of a draft report to respond in writing.
 - iii. The City Council shall resume its deliberations on a complaint at a meeting scheduled after a final investigation report is submitted.
 - d. Censure:
 - i. Censure is the most severe form of action. Censure is a formal statement of the City Council officially reprimanding one of its members. It is a punitive action, which serves as a penalty, but it carries no fine or suspension of the rights provided by California and Federal law to the member as an elected official. Censure cannot be used to remove a member of the City Council from elected office.

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- ii. In addition to a public reprimand, censure can also include such actions as the disapproval of expense reimbursement requests; de-authorization of attendance at conferences, seminars and other activities at the City's expense; removal of the member from local liaison or other intergovernmental meeting assignments; removal of a member from the role of Mayor or Mayor Pro Tempore; and other such remedies as may be deemed appropriate by the City Council and are allowed by California law.
- iii. Censure may be imposed without an investigation; however, any action taken by the City Council to impose censure shall be taken by written resolution.

SECTION FIVE: HISTORY

November 03, 1997	Adopted, Resolution No. 1997-99
December 01, 2020	Revised, Resolution No. 2020-59