

**CITY OF RANCHO PALOS VERDES
CITY COUNCIL
RULES OF PROCEDURE**

Adopted 5/29/12 (2012-38)

Amended 9/2/14 (2014-54)

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OUTLINE OF RULES OF PROCEDURE

1.0 Authority, Interpretation

1. City Council and unless otherwise specified, city commissions and committees, shall administer meetings in accordance with these Rules. (1.0)
2. Protocols for Officials have been merged with these Procedures. (1.0)

2.0 General Rules

1. Three members of the Council, or a majority of the members of a body, constitutes a quorum necessary to transact business. (2.1)
2. If a Councilmember is absent without permission for 60 consecutive days, their seat becomes vacant. (2.2)
3. City Clerk shall record minutes of all public proceeding and makes such minutes available to the public. (2.3)
4. Councilmembers must be recognized by the Mayor prior to speaking on a subject under consideration. (2.4)
5. If there is a conflict over how Council proceedings should be governed, the Municipal Code (RPVMC) shall prevail over other sources, and the Rules of Procedure shall prevail over Rosenberg's Rules of Order. (2.5)
6. City Manager serves the City Council, attends and takes part in Council meetings, and keeps the Council informed as to the administration of the City. Includes rules on absences from City. (2.6).
7. City Manager will provide written notice to Council on matters of significant importance. (2.6(f)).
8. City Attorney shall attend all meetings of the City Council, serves as advisory parliamentarian for the City, and oversees all legal affairs under Council direction. (2.7(a)).
9. A Councilmember shall not have an attorney-client relationship with the City Attorney and may not rely on advice from the City Attorney to obtain immunity from FPPC enforcement. (2.7(b-c)).
10. Council may direct the City Attorney to file amicus briefs. (2.7(d)).
11. City Clerk shall attend all meetings of the City Council, assure all agendas are in accordance with the Brown Act, and keep account of all open proceedings of the City Council. (2.8).
12. City Council may issue subpoenas. (2.10).

3.0 Types of Meetings

1. All regular Council meetings shall be open to the public and held at the designated Council Chambers. The notice and agenda for such meeting shall be posted at least seventy-two (72) hours before the meeting.(3.1-3.3).
2. A special meeting may be called by the Mayor or a majority of the Councilmembers with notice posted at least twenty-four (24) hours before the meeting. (3.5).
3. Council may hold closed session meetings and exclude all persons authorized to be excluded. (3.6).

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4. Breaching confidentiality of closed session not only subjects the Councilmember to censure, but civil and criminal sanctions (3.6).
5. Council may hold study session meetings. (3.7).
6. All meetings of the Council, except for closed sessions, shall be open to and may be recorded by the media. (3.8)

4.0 Officers

1. Describes election of the Mayor and the Mayor Pro Tem and duty to serve as a member and at the pleasure of the Council. (4.1-4.2).
2. Defines selection, duties, and authority of the Presiding Officer. (4.3/4.6).
3. Defines decorum of Councilmembers for being recognized by the Presiding Officer, for motioning to bring a matter before the Council, for enforcing the rules, and for communicating between members regarding matters not on the agenda or during breaks or before and after meetings. Presiding Officer promotes dialogue not allowing one member to monopolize. (14.7).

5.0 Agendas

1. Generally, the Council may not take action on a matter not appearing on the posted agenda. (5.1).
2. Agenda descriptions must provide sufficient detail as to the subject matter of the item. (5.2).
3. City Manager prepares the agenda with oversight from the Mayor and provides appropriate staff reports with professional recommendations for Council consideration.
4. A Councilmember may make a request for the inclusion of an item on a future agenda to the Mayor, City Manager, or to the Council during a meeting. (5.4)
5. Staff reports are required for all agenda items. (5.6).
6. Defines process for Order of Business for Council meetings. (5.6).
7. Defines time for delivery of agenda packet, including reports, to Councilmembers and the public. (5.7).
8. City Clerk shall post the agenda with the time and location of the meeting and a brief description of each agenda item. (5.8).
9. Any person may address the Council regarding an item within the subject matter jurisdiction of the Council. (5.10).
10. Consent Calendar allowed for items not requiring Council discussion and considered ministerial and routine. Items removed by Councilmember are heard after regular agenda, but, if removed at citizen request, are heard after Consent Calendar. (5.12).
11. Oral reports may be included for agenda items, or given by Councilmembers to report on an event they attended as an elected official of the City. (5.13).

6.0 Citizens' Rights

1. Defines time and procedures for public comment. (6.1).

2. No disorderly conduct permitted that would impede the orderly conduct of a Council meeting. Any disorderly person may be removed after receiving a warning. (6.2(a-b)).
3. A majority of the Council may agree to allow an interested person to address the Council for the reading of protests, petitions, or communications relating to a matter under consideration. (6.3).
4. Any person may submit written comments to the Council through the City Clerk or City Manager's office. (6.4).

7.0 Ordinances, Resolutions, and Contracts

1. Ordinances, resolutions, and contracts shall be approved by the City Attorney before placement on the agenda. (7.2).
2. Defines the process for introducing, adopting, and preserving ordinances. (7.3-7.4).

8.0 Procedures Regarding Public Hearings

1. Hearings involving the adjudication of individual property rights and interests are quasi-judicial proceedings with due process requirements. (8.1).
2. Staff reports, written materials, oral reports, and Councilmember questions shall be included in the public hearing record. (8.2).
3. Defines guidelines for Presiding Officer control over public hearing time limits and procedures, and control over Council deliberations. (8.3, 8.4).
4. After closure of the public hearing, Council may vote on the item, offer amendments, reopen the hearing, or continue the matter to a later date for decision. (8.5(b)).
5. A tie vote is a denial. Matter is automatically continued to the next meeting if it is a public hearing matter or a member is absent. (8.5(d)).
6. Councilmembers should minimize extra-meeting contacts with persons who will be the subject of a public hearing, must refrain from expressing any viewpoints during extra-meeting contacts, and after the public hearing, must disclose any extra-meeting contacts that may be relevant to the decision. (8.6(a-c)).
7. Councilmembers may inspect a relevant site and disclose such inspection on the record at the beginning of the public hearing. (8.6(d)).

9.0 Censure of Members

1. A Councilmember who has violated any general law or regulation, or any rule, law, ordinance or resolution of the City may be censured after being given notice and an opportunity to correct the violation. (9.1-9.2, 9.4).
2. Defines procedure for hearing a motion for censure. (9.5-9.8).

10.0 Commissions, Committees, and Subcommittees

1. Mayor appoints Councilmembers to serve as representatives on various committees. (10.1).

2. Council may create commissions, committees or other advisory bodies by ordinance, resolution, or motion, and make appointments to such bodies. (10.2(a-d)).
3. Defines when Council Subcommittees are subject to the Brown Act. (10.3(a)).
4. Subcommittees may use staff support to gather information and provide a Subcommittee report to the Council. (10.3(b-d)).
5. All members are subject to the same email rules and are indemnified to the same extent as Councilmembers. (10.4-10.5).

11. Public Records and Use of Email

1. Documents related to City business, including electronic emails, regardless of whether on City email or personal private email accounts, are public records subject to disclosure. (11.1).
2. Councilmembers shall use City email account for City business and segregate and preserve City business emails that predate these rules. (11.2-11.3).
3. City Attorney shall review any public records including communications of Councilmembers that are responsive to public records requests. (11.4).
4. In response to PRA requests, staff will research City email server and Councilmember will produce City emails exclusively in their possession for review by City Attorney. (11.5-11.7).
5. Defines "public records". (11.8).

12. Defense and Indemnification of Members

1. Councilmembers are employees and are not vicariously liable for injuries caused by the City. Employees are entitled to defense by City, and payment of judgment. City can refuse to defend if employee was acting outside scope of employment or with fraud, corruption, or actual malice; or if defense creates a conflict of interest between City and employee. (12.1).
2. Councilmembers' acts in violation of RPVMC or rules applicable to City Council are outside the scope of employment. (12.2).
3. Employees must cooperate in their defense by the City. (12.3).
4. Defense of Councilmember acting outside the scope of employment or refusing to cooperate with defense is in the Council's absolute discretion. (12.4).
5. Any defense or indemnification by the City is subject to a reservation of rights agreement for subsequently discovered information. (12.5).

13. Suspension and Amendment of these Rules

1. Rules not mandated by RPVMC or the Government Code may be suspended or amended by a vote of the Council. (11.1-11.2).

14. Motions and Voting

1. Includes Table of Motions (Exhibit A). (14.1).
2. City Clerk states all motions submitted for a vote and the Presiding Officer may state the consensus of the Council, or the Clerk will conduct a roll call vote as

- required for adopting ordinances, resolutions, or actions involving the payment of money. (14.2-14.3).
3. Councilmember silence during a vote denotes approval. (14.3(c)).
4. Quorum is required for Council action, but majority vote of total Council membership required for ordinances, resolutions, or orders for payment of money. (14.4(a)).
5. Defines state statutes that require supermajority vote, greater than majority vote of all Councilmembers. (14.4(b)).
6. Members with a conflict of interest are not counted for establishing quorum and may not participate in the decision. (14.4(c)).
7. Members may abstain due to a legally recognized conflict of interest, common law bias, or public perception that their participation would be inappropriate. (14.5 (a-d)).
8. Abstention results in a non-vote, or in the case of a supermajority vote or a vote of those present, a “no” vote. (14.6(e)).
9. Defines procedures for a Councilmember’s motion to reconsider any action. (14.6).
10. Members not previously present should not vote on the approval of minutes or a continued item unless they affirm their familiarization with the earlier record. (14.7).
11. When a motion is before the Council, no other motions may be entertained except a motion to amend, a motion to postpone, a motion to table, or a substitute motion. (14.8).

15.0 Brown Act Demands for Correction

1. Persons seeking to declare any action by the Council void for violation of the Brown Act must first serve a written demand upon the City Clerk and allow the Council thirty (30) days to correct its action before commencing a judicial action. (15.1(a-b)).
2. Subject of demand shall be placed on the agenda and Council will determine whether to reconsider the action, and if so whether to take corrective action. (15.2-15.3.).
3. Process does not void issuance of bonds or contractual obligations. (15.1).

16.0 Code of Conduct

1. Officials must be independent and impartial, should not use the public office for personal gain, and should conduct actions in an atmosphere free of personal animosity and hostility. Officials include elected, appointed, employees and vendors. (16.1/16.3(a)).
2. Code to be reviewed periodically for guidance on conduct in common situations. (16.2(a-b)).
3. City Manager is the administrative head of the City and the City Council is the chief policy-making body of the City. (16.4.2(c)).
4. Defines duties of City Officials (16.3(b)); ethical standards (16.3(c)); and rules of conduct. (16.3(d)).

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5. Councilmembers should avoid impropriety, treat each other collegially, and should seek advice from the City Attorney if they believe their actions may appear to be inappropriate. (16.3(e-g)).
6. Councilmembers shall conduct email correspondence and segregate City emails in a manner that allows ready compliance with public records requests. (16.3(h)).
7. Councilmembers shall not disclose or use any confidential information to advance their own or another's financial or personal interests. (16.4).
8. Official may not assert or imply that they are acting on behalf of the City unless authorized to do so by the Council, shall provide disclaimers. If not acting officially, and not communicate anonymously. (16.5).
9. City Manager is responsible for the administrative operation of the City. (16.6(a)).
10. Councilmembers should direct questions or information requests only to the City Manager, City Attorney, Deputy City Manager, Department Heads, Human Resources Manager, or Economic Development Manager. (16.6(b)).
11. Councilmembers should not disrupt or attempt to influence staff. (16.6(c-d)).
12. Councilmembers should check with staff before sending correspondence. (16.6(e)).
13. Councilmembers should not attend meetings with staff unless requested. (16.6(f)).
14. Employees shall be assigned to provide administrative support to Councilmembers. (16.6(g)).
15. Officials should not direct the City Manager as to City personnel matters. (16.6(h)).
16. City Manager shall require all staff and employees to observe the same rules of procedure and decorum applicable to Councilmembers. (16.7).
17. Staff desiring to address the City Council or the public should address the remarks to the Presiding Officer. (16.7).
18. Councilmembers should not solicit political support from staff. (16.8).

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CITY OF RANCHO PALOS VERDES

CITY COUNCIL

RULES OF PROCEDURE

1.0 AUTHORITY, INTERPRETATION

As provided by Government Code Section 36813, the City Council hereby establishes these Rules of Procedure (the "Rules") for the conduct of meetings and of City business generally. These Rules shall be interpreted and administered to be consistent with the Rancho Palos Verdes Municipal Code ("RPVMC"), and state laws. These Rules shall be in effect upon the adoption by City Council and until such time as they are amended or new rules are adopted in the manner provided by these Rules.

Additionally, City commissions, committees and advisory bodies shall generally administer their meetings in accordance with these Rules. In addition to these Rules, the City Council has adopted Protocols for Officials (the "Protocols") and by motion adopted various policies (the "Policies") establishing City procedures, which are separately maintained. The Protocols have now been merged within these Procedures and are no longer a separate document. These authorities shall be liberally constructed and harmonized so as to carry out the City's purposes which are to promote transparency and citizen participation in a civil and respectful governance environment.

2.0 GENERAL RULES

2.1 Quorum

A majority of the members of the body, and in the case of the Council, three members of the Council, shall constitute a quorum necessary to transact business. In the event a quorum is not in attendance, the City Clerk will adjourn the meeting to a later set time.

2.2 Vacancy by Unexcused Absence

If a Councilmember is absent without permission from all regular Council meetings for 60 days consecutively from the last regular meeting s/he attended, his/her office becomes vacant and shall be filled as any other vacancy, as provided by Government Code Section 36513.

2.3 Minutes of Proceedings

An account of all public proceedings of the Council shall be recorded by the City Clerk or his/her designee and entered into the official minute books of the Council. These minutes shall be available to the public following approval by the Council.

2.4 Right of Floor

Any Councilmember desiring to speak shall first be recognized by the Mayor and shall confine any remarks to the subject under consideration.

2.5 Rules of Order

In all matters and things not otherwise provided for herein, the proceedings of the Council shall be governed by "Rosenberg's Rules of Order", unless there are no applicable provisions in which case the applicable provision of Robert's Rules of Order shall apply. However, no ordinance, resolution, proceedings or other action of the Council will be invalidated, or the legality thereof affected, by the failure or omission to observe or follow said Rules. In the event of a conflict between the City's Municipal Code and/or these Rules of Procedure with the Rosenberg's Rules of Order, the provisions of the City's Municipal Code shall prevail over other sources, and the Rules and Procedures shall prevail over Rosenberg's Rules.

2.6 City Manager

(a) *General.* The City Manager reports to and serves at the pleasure of the Council and shall be governed by Chapter 2.08 of the RPVMC. The City Manager may make recommendations and shall have the right to take part in all discussions of the Council, but shall have no vote.

(b) *Attendance.* The City Manager shall attend all meetings of the Council unless excused, and in his/her absence, the Deputy City Manager or Acting City Manager shall substitute. The City Manager shall report to the Council on any proposed periods of absence from the City and the reasons therefore. The City Manager will regularly be available for emergency contact on a 24/7 basis. If the City Manager should become or plans to become unavailable for any reason, the City Manager will notify the Council and Staff in writing as to who is the acting Chief Executive of the City during his/her absence. The City Manager should notify the Council and Staff in writing immediately upon resuming his/her duties and becoming available.

(c) *Duties.* The City Manager shall have the duties specified in Section 2.08 of the RPVMC. The City Manager shall supervise staff to ensure that each staff member maintains the policies and direction of the Council. The City Manager shall keep the Council informed as to the administration of the City, and shall report on all activities, meetings, and functions, including all conferences and gatherings attended on behalf of the city.

(d) *Business Trips and Travel.* The Council will be advised in writing of the City Manager's planned city business trips for conferences, meetings and seminars on an annual basis, within the first 30 days of the calendar year or within the first 30 days of employment, as applicable. Should a business trip become necessary that had not been previously scheduled and noticed via the aforementioned process, the City Manager will give as much advanced notice as possible, but no less than 14 days prior to the conference, meeting or seminar and will not make arrangements until 48 hours has

passed from the time notice is sent to the Council. The Council will be given at least 30 days advanced notice on proposed vacation travel for periods longer than 2 days. Said notification will not apply to sick leave or emergency leave situations. The City Manager will promptly notify the Council via email of any changes to scheduled/planned trips or meetings.

(e) *Expense Reports.* The Director of Finance will produce detailed expense reports of all expenses for which reimbursement has been requested within 15 days after the close of each calendar quarter. The format of the report will be approved by the Council. The City Manager shall only submit city business expenses for reimbursement, providing all the requisite backup, including invoices, receipts and/or other similar documentation.

(f) *Advice of Council.* Matters of significant importance (i.e., the hiring/appointment of senior or highly compensated staff or third party contractors, changes in the interpretation of the RPVMC, interaction or decisions with respect to high profile city residents/businesses, notification of significant changes to contracts, interaction or decisions with respect to any individual or entity that has initiated or threatened litigation, issuance of any press release, etc.) will require written notification to the City Council within two days thereof. Thereafter, upon the request of any Councilmember, provided no detrimental reliance has arisen therefrom, the matter shall be placed on a public agenda for consideration by the Council.

2.7 City Attorney

(a) *Authority.* The City Attorney, or deputy, shall attend all meetings of the Council unless excused and shall attend all meetings of such other boards and commissions as directed by the Council or City Manager. The City Attorney serves as advisory parliamentarian for the City. Final rulings on parliamentary procedure are made by the Presiding Officer. All ordinances and resolutions and all contracts, deeds, easements or other legal instruments shall be approved as to form and legality by City Attorney. In any case of ambiguity or uncertainty in the interpretation or application of this Manual to any procedure, the Presiding Officer may direct such question to the City Attorney for a ruling.

(b) *Attorney-Client Privilege.* The City Attorney is the legal representative of the City acting through its City Council. Any member of the Council may request from the City Attorney a legal opinion regarding any matter related to the interests of the City. Where a legal opinion involves substantial cost, the request for the opinion must first be approved by the City Manager or by a majority of the Council. There is a continuing legal question as to whether the City Attorney may have an attorney-client relationship with any individual member of the Council or the staff. As a consequence, any discussion with the City Attorney which leads to the conclusion that the interests of the City are at risk must be revealed to all relevant members of the Council and the staff by the City Attorney. The City Attorney shall not have an attorney-client relationship with individual Councilmembers. The City Attorney is required to maintain the confidentiality

of such communications from persons outside the City to the extent required or permitted by law and the code of ethics.

(c) *Conflict Opinions.* The City Attorney has no statutory duty or authority under the Political Reform Act to provide Political Reform Act advice to any Councilmember but should provide advice to members when requested. However, a Councilmember may not rely on advice from the City Attorney to provide him or her with immunity from Fair Political Practices Commission (“FPPC”) enforcement or prosecution. Such immunity may be obtained only through a written advice letter obtained from the FPPC by the Councilmember. A Councilmember enjoys no privilege of attorney-client confidentiality with the City Attorney any such advice cannot be withheld from the rest of the Council. If, after receipt of an opinion of the City Attorney, the Councilmember wishes to participate in the decision-making process with immunity from prosecution, the City Attorney shall assist the Councilmember in making direct contact with the FPPC for informal or formal advice upon which the Councilmember can rely.

(d) *Amicus.* From time to time, other jurisdictions or the League of California Cities or other regional or statewide association will ask the City to participate in the filing of a letter or brief before a court in a matter deemed to be of concern to cities generally and which would benefit the City. These “friend of the court,” or “amicus” briefs show the court that its decision will have broad impact. Such participation is normally without direct cost to the City. In considering whether to direct City Attorney to file an amicus brief, the Council shall consider whether such brief would benefit or conflict with other City-related interests such as, without limitation, the interests of employee organizations, law enforcement or public safety.

(1) Upon receipt of the request, the City Attorney shall make the request available through the City Manager to the Council. Upon a determination by any Councilmember that there is an interest in participating in the action in the manner proposed, the Councilmember shall inform the City Manager or City Attorney who shall place the matter as an item for discussion in closed session on the agenda of the next Council meeting. The City Attorney may also place an amicus request on the agenda on his or her initiative.

(2) In lieu of the foregoing process, where there is urgency to the matter, the City Attorney is authorized to undertake the filing of the letter or brief where (i) in the opinion of City Attorney the legal matter significantly affects the interests of the City, (ii) the City Attorney has consulted with and received the approval of the City Manager, (iii) the cost to the City will not exceed \$5000, and (iv) the City Attorney makes a written report of the action to the Council.

(3) Approval given to City Attorney to defend, seek or refrain from seeking, appellate review or relief, or to enter as an amicus curiae in any form of litigation as the result of a closed session consultation shall be reported in open session at the public meeting during which the closed session is held. The report shall identify, if known, the adverse party or parties and the substance of the litigation. In the case of approval given to initiate or intervene in an action, the announcement need not identify the action,

the defendants, or other particulars, but shall specify that the direction to initiate or intervene in an action has been given and that the action, the defendants, and the other particulars shall, once formally commenced, be disclosed to any person upon inquiry, unless to do so would jeopardize the agency's ability to effectuate service of process on one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

2.8 City Clerk

(a) *General.* The City Clerk or his/her designee shall attend all meetings of the Council unless excused by the City Manager, and in her/his absence, the Deputy City Clerk shall substitute. The City Clerk shall ensure that all agendas are prepared, noticed, and distributed in accordance with the Brown Act. The City Clerk shall record, prepare and maintain the official record of the Council and perform other related duties as prescribed by the Council and/or City Manager.

(b) *Minutes.* An account of all proceedings of Council open meetings shall be kept by the City Clerk. The City Clerk shall prepare an abbreviated record of the meetings proceedings for approval by the Council, which when adopted by the Council, shall be the official Minutes of the meeting. Amendment of the minutes may be made only as to factual accuracy and not as to a change of intent. The Minutes of the meeting need not be verbatim. Only the best and most complete available recording of the meeting shall constitute the official record of the Council, but the Minutes shall constitute the official record of the Council meeting where a verbatim record of the meeting is not available.

2.9 Deputy City Manager/Department Heads/Employees

The Deputy City Manager, Department Heads and other city employees, as directed by the City Manager, shall attend Council meetings.

2.10 Power to Issue Subpoenas

The Council may issue subpoenas requiring attendance of witnesses, or production of books, or other document for evidence, or testimony any action or proceeding pending before it. (Govt. Code § 37104.) Subpoenas shall be signed by the Mayor and attested to by the City Clerk. They may be served in same manner as subpoenas in civil actions.

3.0 TYPES OF MEETINGS

3.1 Public Meetings

In accordance with the Brown Act (Govt. Code §§ 54950 et seq), all meetings of the Council and all its commissions, committees and bodies, including standing committees, shall be open to the public, except for (i) portions of meetings which can be conducted in closed session, (ii) meetings of less than a quorum, or (iii) meetings of non-governing bodies operating in a wholly advisory role.

3.2 Regular Meetings

The Council shall meet in the Council Chambers located at Fred Hesse Community Park, 29301 Hawthorne Boulevard, for all regular meetings. Regular meetings of the Council shall be held on the first and third Tuesday of each month at the hour of seven p.m. in the Council Chambers except as follows:

(a) When a Rancho Palos Verdes municipal election is conducted in the City on the first or third Tuesday of any month, the meeting shall be held on the next succeeding day, that is not a holiday.

(b) When an official City holiday falls on the first or third Tuesday of any month, the meeting shall be held on the next succeeding day that is not a holiday.

Only closed sessions and study sessions may be held between six p.m. and seven p.m. unless a regular meeting is adjourned to, or a special meeting is called for, such time. All study sessions shall be noticed and open to the public and taped for future telecasting on local TV provided that no telecasting is required during closed sessions.

No study session or closed session will be held during such hours unless the agenda is posted at least seventy-two hours prior to the meeting as required by Section 54954.2 of the California Government Code. No action shall be taken during any study session held between such hours unless the agenda so provides.

The Council will adjourn its meetings on or before 11:00 p.m. and will not consider new business items after 10:15 p.m., unless the majority of the Councilmembers who are present affirmatively vote either to extend the meeting after 11:00 p.m. or to consider new business after 10:15 p.m. If the meeting ends before all of the items listed on the agenda are completed, any unfinished business will be continued to the next regular meeting unless the Council determines to consider the matter(s) earlier at an adjourned regular meeting. The City Clerk, or his or her deputy, will post notice of any continued hearing or other unfinished business, as required by law.

3.3 Notice of Regular Meetings

For every regular Council meeting, the City Clerk or his or her designee, shall post a notice of the meeting, specifying the time and place at which the meeting will be held, and an agenda containing a brief description of all the items of business to be discussed at the meeting, as set forth in Section 5.2. The notice and agenda may be combined into a single document.

The notice and agenda must be posted at least seventy-two (72) hours before the regular meeting in a location freely accessible to the public twenty-four (24) hours a day during the seventy-two (72) hour period and where the notice and agenda is not likely to be removed or obscured by other posted material, in the manner provided in Section 3.5. Specifically, the notice and agenda shall be posted at the places indicated below, and/or at such other location(s) as the City Clerk may designate:

City Hall
City Website

The locations for posting may be revised from time to time by resolution of the Council.

3.4 Adjourned Meetings

Any meeting of the Council may be adjourned to a later date, place and time, provided no adjournment is for a longer period than the next regularly scheduled meeting.

3.5 Special Meetings

Special meetings may be called by the Mayor, or by a majority of the Councilmembers, by delivering written notice to each Councilmember and to each local newspaper of general circulation and any radio or television station requesting such notice, in accordance with Government Code Section 54956. The notice for a special meeting must specify the subject(s) to be considered, and only the matters specified in the notice may be discussed at special meetings. The notice for a special meeting shall be conspicuously posted at least twenty-four (24) hours prior to the special meeting in a location that is freely accessible to the public twenty-four (24) hours a day and where the notice is not likely to be removed or obscured by other posted material. Specifically, the notice shall be posted at the same locations designated for posting of the regular agenda, and at such other location(s) as the City Clerk may designate.

3.6 Closed Session Meetings

(a) *Generally.* The Council may hold closed sessions during a regular or special meeting, or at any time otherwise authorized by law, to consider any matter it is authorized to consider in closed session. Public comment shall be permitted on closed session matters prior to the closed session. If a closed session is included on the agenda, the description of the item shall meet the requirements of and shall identify the statutory basis for the closed session. During closed session, the Council shall exclude all persons which it is authorized by state law to exclude from a closed session. No minutes of the proceedings of the Council during a closed session are required. Closed session may not be held regarding a matter not listed on a properly posted agenda for closed session except upon the Council first taking action to place the item on the agenda as a closed session item as provided in Section 5.1 and as permitted by law.

(b) *Confidentiality.* No person attending a closed session shall publicly discuss or otherwise reveal the discussion, content, and/or proceedings of the closed session unless such disclosure has been approved by the vote of the Council taken during the closed session or as otherwise required by law. Violation of this rule may subject the violator to various penalties including (i) censure by the Council as provided in Article 9.0 herein, (ii) criminal penalties as the willful failure to perform a duty under Government Code Section 1222, or other statute, (iii) referral to the grand jury, or (iv) civil actions, including issuance of an injunction. To that end, an admonition shall be added to every City Council agenda noting the privilege of the Closed Session and warning of the legal

consequences of violating the same. If minutes are kept, they are not a public record and shall be kept confidential and shall be available only to Councilmembers or as otherwise provided by law (Government Code § 54957.2(a)).

(c) *Public Reports.* Before recessing into closed session, the Presiding Officer or City Attorney shall announce that the body is recessing into closed session and shall name each closed session topic that will be discussed in closed session. Public comment will be allowed on closed session agenda items prior to the closed session. Upon leaving closed session, the Presiding Officer or City Attorney shall report publicly any reportable actions taken on a closed session matter and, if any vote was taken, shall announce that the matter was put to a vote, the results of the vote, and how each Councilmember voted.

3.7 Study Session Meetings

The Council may meet informally in conference or “study” sessions regarding concerns of the Council to gather and exchange information, and such meetings shall be subject to the Brown Act, provided that all discussions and conclusions shall be informal. Such meeting shall be called in the same manner as for special meetings or adjourned meetings, as applicable. Each notice shall indicate that an opportunity for public comment shall be provided before any matter shall be determined. When a meeting has been designated a Study Session, the Council shall not take any action with respect to the matter under study other than directing the City Manager to take action on a particular item which will be brought back before the Council for formal action or with prior public notice appearing on a properly posted agenda of such intent to take action.

3.8 Media Attendance

Except for closed sessions, all meetings of the Council and City boards and commissions shall be open to the media, and may be recorded by tape, radio, television, or photography, provided such recordings do not interfere with the orderly conduct of the meetings.

3.9 Recess

Once every hour and one-half, or as Council business permits, the Council shall recess for a period of time specified by the Mayor.

3.10 Redevelopment Successor Agency and Improvement Authority Business

Unless otherwise directed by the Council, upon adjournment of the regular Council meeting held on the first Tuesday of each month, the Council will meet as the Successor Agency to the Rancho Palos Verdes Redevelopment Agency and then as the Rancho Palos Verdes Improvement Authority. The meeting of these bodies shall be conducted in accordance with these Rules.

3.11 Civic and Other Events

(a) *Notify City Manager of Meeting.* If a quorum or more of the Members of the Council will attend an event where City business will be discussed by a quorum of the Council, the Councilmembers shall notify the City Manager so that the event can be noticed as a Council meeting in accordance with the provisions of the Brown Act.

(b) *Attendance at Conferences and Social Events Permitted.* Notwithstanding the foregoing, three or more members of the Council may attend conferences and social or community events in accordance with the Brown Act so long as City business is not conducted at such events. In the event City expenditure is proposed for other invited guests (as permitted by state law), such expenditure must be approved by the Council at a regularly scheduled Council meeting that is held in advance of the event.

4.0 OFFICERS

4.1 Election of the Mayor

The Mayor is a member of the Council and shall be publicly elected by a majority vote of Council at the first regular meeting in December or, in the case of an election year, upon certification of the election results. The individual who is elected by the City Council as Mayor serves as Mayor at the pleasure of the Council. As a Councilmember, the Mayor shall have all the powers of a member and only such additional powers as specified herein or in the RPVMC.

4.2 Mayor Pro Tem

The Mayor Pro Tem is a member of the City Council and shall be publicly elected by a majority of the Council. The individual who is elected by the Council as Mayor Pro Tem serves as Mayor Pro Tem at the pleasure of the Council. Should the Mayor, for any reason, be out of Los Angeles County for a period of 24 hours or longer, he / she shall notify the Mayor Pro Tem and the City Manager of his/her intent and the Mayor Pro Tem will assume the Mayor's duties until the Mayor has notified the Mayor Pro Tem and the City Manager of his/her return to Los Angeles County.

4.3 Presiding Officer

(a) *Determination of Presiding Officer.* The Mayor, if present, shall preside at all meetings of the Council as the Presiding Officer. In the Mayor's absence, the Mayor Pro Tem shall preside. In the absence of both, the Councilmembers present shall elect a temporary Presiding Officer.

(b) *Presiding Officer Participation.* The Presiding Officer's most important function is to run an efficient meeting and to move the discussion forward and encourage participation. Notwithstanding the Presiding Officer may move, second, and debate from the Chair, and shall not be deprived of any rights and/or privileges of a Councilmember.

(c) *Obligations of Presiding Officer.* The Presiding Officer shall have the authority to rule any speaker out of order, including speakers during the public comment period, if the subject raised is not within the subject matter jurisdiction of the Council, or during a public hearing if the speaker is not presenting testimony or evidence relevant to the matter which is the subject of the public hearing. The Presiding Officer shall have the responsibility for the conduct of meetings in an orderly manner and to prevent the obstruction of business, and in carrying out this responsibility, shall have the authority to give the floor to any Councilmember or public by recognizing them, to prevent the misuse of legitimate forms of motions or privileges, to take matters up that are deemed out of order, to caution speakers as to disruptive behavior, and to order any persons willfully interrupting the meeting to be removed from the room, as provided in Sections 4.6 and 6.2. Where large numbers of speakers wish to address a matter, the Presiding Officer can shorten the normal time period for speaking, call for representatives to speak for the group, and/or limit repetitious speakers.

4.4 Point of Order

Any determination made by the Presiding Officer can be questioned by raising a point of order, and if the determination is not satisfactorily modified by the Presiding Officer, it may be appealed by the making of a Motion to Appeal the Ruling by any Councilmember. The Presiding Officer's determination will stand unless a majority of the Councilmembers vote in favor of the Motion to Appeal the Ruling, in which case the ruling of the Presiding Officer will be overridden. The Motion to Appeal the Ruling is governed by the Chart of Motions attached as Exhibit A.

4.5 Personal Privilege

If a Councilmember is personally offended by the remarks of another member, the offended Councilmember may call for a "point of personal privilege" that challenges the other member to justify the remarks or apologize for the language used. The Presiding Officer will maintain control of such discussion. The right of a member to address the Council on a question of personal privilege shall be limited to cases in which his integrity, character, or motives are assailed, questioned or impugned.

4.6 Preservation of Order

The Presiding Officer shall preserve strict order and decorum, and shall confine debate to the item under discussion, and shall discourage debate between Councilmember's and persons addressing the Council. Any person conducting their public remarks or behavior before the Council in such a way as to actually cause disruption to the conduct of the meeting, may be removed from the room by the enforcement officer as directed by the Presiding Officer. Remarks from the audience, stamping of feet, whistles, yells and similar disruptive demonstrations shall not be tolerated nor permitted by the Presiding Officer, who may direct the enforcement officer to remove such offenders from the room or call a recess of the meeting whereby the Council will leave the chamber and the chamber may be cleared. Aggravated cases may be prosecuted on appropriate complaint signed by the Presiding Officer. In accordance

with Section 6.2, the Presiding Officer shall provide a verbal warning prior to ordering removal of any person unless circumstances make it unreasonable to do so.

4.7 Councilmember Decorum

(a) *Recognition.* Any Councilmember wishing to speak, or any member of the public wishing to address the Council, must first obtain the floor by being recognized by the Presiding Officer. The Presiding Officer must recognize any Councilmember who seeks the floor when appropriately entitled to address the Council. The Presiding Officer should generally recognize a councilmember who has not spoken before recognizing a Councilmember a second time. The Councilmember shall confine himself or herself to the question under debate.

(b) *Motions.* Any Councilmember, including the Presiding Officer, may bring a matter of business properly before the Council for decision by making a motion. All motions require a second. Without a second, the motion will die. Once a motion is seconded, it may be opened for discussion and debate, but the Presiding Officer may permit discussion prior to the motion. Once the Council has had a chance to speak in favor or against the motion, the Presiding Officer will call for a vote. Any Councilmember, including the Presiding Officer, except the Councilmember making the motion, may second a motion.

(c) *Interpretation.* A Councilmember, once recognized, shall not be interrupted while speaking unless called to order by the Presiding Officer, unless a Point of Order is raised by another Councilmember, or unless the Councilmember chooses to yield to questions from another Councilmember. Any Councilmember called to order while speaking shall cease speaking immediately until the question of order is determined.

(d) *Enforce Rules.* Any Councilmember may move to require the Presiding Officer to enforce rules, and the affirmative vote of a majority of the Council shall require the Presiding Officer to so act.

(e) *Texting.* Councilmembers shall not engage in communications between themselves or members of staff during the Council meeting (including breaks) regarding matters being considered on the agenda unless and until the Council has opened that agenda item. No electronic texting is permitted between Councilmembers, or between Councilmembers and the public during meetings. In order to minimize exposure to a Brown Act violation, Councilmembers are discouraged from discussing any City business during breaks or before and after meetings. City business may only be discussed by a quorum of Councilmembers when opened as a duly-noticed agenda item.

(f) *Discussion/Debate.* Councilmembers shall practice civility and decorum in discussions and debate, and shall honor the authority of the Presiding Officer in maintaining order.

5.0 **AGENDAS**

5.1 No Discussion of Item Not on Agenda

No action or discussion shall be undertaken on any matter not appearing on a properly posted agenda except (i) councilmembers or staff can briefly respond to statements or questions arising during public comments (Section 6.1(d)); (ii) oral reports may be given pursuant to Section 5.1; and (iii) matters are added by a 2/3 vote of the members present, or if less than 2/3 are present, a unanimous vote of those present, where a finding is made that there is a need to take immediate action and the need to act arose subsequent to the posting of the agenda; and (iv) such other causes permitted by the Brown Act (G.C. 54954.2). An “action is taken” within the meaning of the Brown Act when a collective decision is made by a majority of the Councilmembers, including a collective commitment or promise to make a positive or negative decision upon a motion, proposal, order, or other action.

5.2 Agenda Description

The agenda description may be brief but with sufficient detail so that a person otherwise unaware of the topic could determine the general nature or subject matter of the item by reading the agenda. Recommended actions will be listed on the agenda.

5.3 City Manager Prepares Agenda With Mayor Oversight and Concurrence

The City Manager prepares the agenda in conjunction with and with the concurrence of the Mayor, including the order and priority of agenda items. In establishing the agenda, consideration should be given to the estimates of time required for the Council to review, consider and take action regarding each agenda item and the meeting deadlines established in Section 3.2. In the absence of the Mayor, the Mayor Pro Tem will assume this responsibility as the Council’s representative. The Mayor will provide the appropriate oversight to ensure that agenda items are timely and responsive to the needs of the residents. The City Manager is responsible for having appropriate staff reports with sound professional recommendations ready for inclusion in all Council Agenda packages. Should occasions arise where that is not possible, the City Manager will so advise the Mayor who will decide a course of action.

5.4 Scheduling Tentative Agenda Items

All members of the Council shall be made aware of tentative agendas for upcoming meetings on a weekly basis. Individual Councilmember’s may request that an item currently included and listed as a tentative agenda item be placed on a specific agenda by making such requests to either the Mayor or the City Manager. The Mayor may decide that other issues have greater priority and will either schedule the item for a different agenda or deny the request.

5.5 For Future Agenda Items

If the Mayor declines to place the requested item on an upcoming Council agenda, the Councilmember may then make the request directly to the Council at a Council meeting under the business item entitled “Tentative Agenda Items” and a majority of the Councilmembers must vote to place the item on a specific agenda, and if that action is taken, the Council will specify the meeting agenda upon which the item shall be placed.

5.6 Staff Reports

With the exception of consent calendar items, all agenda items shall be accompanied by a staff report. Staff shall strive to provide staff reports to the Council with sound, professional recommendations on a course of action for all City issues to the maximum extent practical along with pertinent facts and analysis to enable the Council to make an informed decision. The report shall include specific recommendations in the form of a motion which could be taken, along with alternative actions which could be taken. If a Councilmember prepares a report for an agenda item, it shall be submitted to the City Manager at the same time that other agenda reports are to be submitted.

It is within the prerogative of the Council, by unanimous consent, to waive the actual oral presentation of any report.

5.7 Order of Business

- (a) Call to Order, Roll Call, Pledge of Allegiance
- (b) Closed Session Report
- (c) Ceremonial
- (d) Mayor's Announcements
- (e) Drawings (Recycling and Others)
- (f) Approval of Agenda
- (g) Public Comments
- (h) City Manager Report
- (i) Consent Calendar
- (j) Public Hearings
- (k) Regular Business
- (l) Future Agenda Items
- (m) Council Oral Reports
- (n) Adjournment

5.8 Agenda Preparation Distribution

The Agenda shall be delivered to the Mayor and Councilmembers as soon as practicable after 5:30 p.m. on the Tuesday preceding the Tuesday meeting. The agenda shall be posted on the bulletin board at City Hall at the same time that it is distributed to the Councilmembers. If the agenda is distributed to Councilmembers after 5:30 p.m., the full agenda packet, including reports, shall be made available to the public upon request without delay, in accordance with the provisions of the Brown Act. Closed session reports will be delivered to Councilmembers by the Friday evening prior to the meeting, unless circumstances prevent such distribution.

5.9 Agenda Posting

In accordance with Section 3.3 herein, the City Clerk shall post, in a location that is freely accessible to members of the public and on the City's website, an agenda at least 72 hours before a regular meeting. The agenda shall specify the time and location of the

meeting and contain a brief description of each item of business to be transacted or discussed.

5.10 Minutes

Minutes will be approved by posting them as a Consent Calendar item and after the City Clerk previously furnished a copy to each Councilmember.

5.11 Public Comments

During Public Comments, any person may address the Council on any subject, provided that the item is within the subject matter jurisdiction of the Council and is not otherwise on the agenda. Comments shall conform with Section 6.1.

5.12 Public Hearings

Items requiring a Public Hearing will be published and/or mailed to property owners as required by law. Public hearings shall be conducted in accordance with Article 8.0.

5.13 Consent Calendar

(a) *Items Appropriate for Consent Calendar.* Items listed under the Consent Calendar are those items the City Manager believes, and the Mayor concurs, will not normally require Council discussion and are considered ministerial and routine, or of a periodic or recurring nature. The Consent Calendar may also contain resolutions confirming prior Council action. However, the Consent Calendar is not for new policies that have not been discussed previously by the Council or any item that is anticipated to require discussion by the Council. Accordingly, any matter where the City Manager with the concurrence of the Mayor, believes (i) it unlikely that there would be unanimous approval by the Council, or (ii) there is likely to be public comment on the matter, or (iii) a public presentation of the matter would be beneficial to the community, should be on the Regular Business portion of the meeting.

(b) *Excluded Consent Items.* Any member of the Council may remove an item for discussion or clarification. Items removed from the Consent Calendar will be heard after the Regular Business section of the agenda, unless otherwise directed by the Council. If a member of the public has requested to speak on that item, the item shall be pulled from the Consent Calendar and heard immediately after the approval of Consent Calendar.

5.14 Oral Reports

(a) *General.* Regular agenda items include oral reports by the Council and City Manager. These can be used to inform the public concerning upcoming events, report on attendance at conferences and seminars, or similar matters. These matters may not be discussed, opined upon or deliberated, and if they do not concern a matter on the agenda, shall be handled by the Presiding Officer according to the same procedures set

out for Public Comment in Section 6.1(d). No action may be taken on such matters without being placed on a subsequent agenda.

(b) *Council Reporting Obligations.* Councilmembers have reporting obligations as to events attended as an elected official of the City. The Mayor may, with the consent of the Council, limit the time for such reports or defer them to a future meeting, provided that the Councilmember's legal reporting obligations are met. Councilmembers are required to provide a brief oral report on their attendance at any meetings where City funds have been expended. Detailed reports should be made in writing. Written reports will be posted on the City's website. Reports should generally omit functions that are purely of a social, charitable, or personal nature.

(c) *City Manager Reports.* The agenda matter referred to as City Manager Reports may be used by the City Manager as provided in Subsection (a) above to make announcements without separately listing each item on the agenda, and subject to the same restriction that there may be no discussion or action on such matter without being placed on a subsequent agenda.

6.0 CITIZENS' RIGHTS

6.1 Addressing the Council

(a) *Times for Public Comment.* Any person may address the Council on the following portions of the agenda:

- (1) Public Comments as provided in Section 5.5.
- (2) Public Hearings as provided in Article 8.0.
- (3) All other portions of the agenda prior to a vote, if any, being taken.

(b) *Comments on Agenda Items.* Members of the public shall have the opportunity to address the Council on each and every item listed on the agenda. Public comment on agenda items will generally be heard prior to Council consideration/discussion of the item. Public comments on an agenda item may be heard either in combination with the General Public Comment period at the start of the meeting, or at the time the Council opens the item, or both, as determined by the Council and set forth in the agenda.

(c) *Procedures for Public Comment.*

The following shall apply:

- (1) Each person addressing the Council shall step to the podium and give their name for the record and identify the subject matter of the comment. The giving of an address is strictly voluntary.

- (2) Each speaker is limited to three minutes on Public Comments. All remarks shall be directed to the Mayor and Council as a body and not to any particular member.
- (3) No person, other than members of the Council and the person having the floor, shall be permitted to enter into the discussion.
- (4) No question shall be asked of Councilmembers or staff except through the Mayor.
- (5) The Council may limit the public input on any item based on the number of people requesting to speak, the length of the agenda, or the business of the Council.
- (6) All questions from Councilmembers must be limited to facts-only informational inquiries, and the Council may not discuss the merits, express any opinions or ask questions that convey opinions or thought processes with respect to any non-agendized issue.
- (7) These guidelines will generally apply to special meetings as well, but the Council reserves the right to otherwise limit or preclude Public Comments during special meetings to items listed on the agenda of the special meeting.

(d) *Response to Comments.* At the close of the speaker's comments, or the close of the period for public comment, the Presiding Officer may ask staff to respond to the speaker's comments. Unless there is an agenda item on the subject, the speaker comments may not be responded to substantively. If there is an agenda item, the substantive response shall be deferred until the matter is considered. The Presiding Officer may only refer the matter to staff for investigation and/or response; or request that the matter be placed on an agenda for a subsequent meeting for action by the Council.

6.2 Disorderly Conduct

(a) *Disorderly Conduct Prohibited.* No speaker or person in the audience at a Council meeting shall engage in disorderly or boisterous conduct, including the utterance of loud, threatening, or abusive language, whistling, stamping of feet, booing or other acts which disturb, disrupt or otherwise impede the orderly conduct of any Council meeting. Applause will be permitted, as deemed acceptable by the Presiding Officer, except during public hearing items.

(b) *Examples.* Examples of remarks or behavior that can cause actual disruption of the Council proceedings include but are not limited to:

- (1) Failure to comply with an order to be seated or refrain from disrupting the meeting.

- (2) Interrupting speakers.
- (3) Calling members of the audience names.
- (4) Extended discussion of irrelevancies or being unduly repetitious.
- (5) Physical threats.
- (6) Shouting into the microphone.
- (7) Dumping items on the floor of the chamber or using similar physical props.
- (8) Speaking past time limits unless a time extension is requested and is granted.
- (9) Constant interruptions.
- (10) Interruption of the meeting to make “objections”.

Examples of conduct judicially determined not to be disruptive include (i) silent gestures by members of the audience, such as a thumbs up or thumbs down, or salutes that are not otherwise disruptive of the meeting, or (ii) catcalls or booing during a time allowed for applause that does not otherwise disrupt the meeting. Mere criticisms of public officials or staff that may reasonably be inferred as showing disrespect or tending to embarrass such officials, without other conduct disrupting the meeting, is not considered disorderly conduct.

(c) *Sanction.* Any person who conducts himself or herself in the aforementioned manner shall, at the discretion of the Presiding Officer or by a majority of the Council, pursuant to a point of order requested pursuant to Section 4.4 of these Rules, be barred from further audience before the Council during the meeting. The Presiding Officer shall request that a person who is breaching these Rules be orderly and silent. If, after receiving a warning from the Presiding Officer, a person persists in disturbing the meeting, the Presiding Officer may order the person to leave the Council meeting. If such person does not immediately remove himself or herself, the Presiding Officer may order any law enforcement officer who is on duty at the meeting or a sergeant-at-arms of the Council, to remove the person from the Council Chambers. Alternatively, the Presiding Officer may recess the meeting until a law enforcement officer is able to arrive and remove the disruptive person.

(d) *Clearing Room.* As set forth in Government Code § 54957.9, in the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting infeasible, and if order cannot be restored by the removal of individuals who are willfully interrupting the meeting, the Councilmembers may order the meeting room cleared and continue the meeting. Only matters appearing on the agenda may be considered in such a session. Duly accredited representatives of

the press or other news media, except those participating in any disturbance, shall be allowed to attend the session held pursuant to this Section. Nothing in this Section shall prohibit the Council from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting.

6.3 Reading of Protests

Interested persons or their representatives may address the Council for the reading of protests, petitions or communications relating to the matter under consideration if a majority of the Council agrees that the person should be heard. Such presentation shall be subject to the time limits that have been established for addressing the Council.

6.4 Written Communications

Any person(s) may submit written comments to the Council through the City Clerk or City Manager's office and request that Council receive copies in the agenda packet, provided such written comments are received in sufficient time to include them in the agenda packet. Written communications may consist of letters, facsimiles or messages received by electronic mail. Written communications that are submitted after the agenda has been distributed to the Council will be distributed to the Council as late correspondence. It is strongly recommended that such communications be received by the Monday preceding regular Council meeting in order for the Council, as well as the public to have an opportunity to read the communication.

7.0 ORDINANCES, RESOLUTIONS AND CONTRACTS

7.1 Document Preparation

The content and form of all ordinances and resolutions shall be approved by the City Attorney. All ordinances shall be clear and a statement of intent is included when useful for future interpretation. No ordinance shall be prepared for presentation to the Council unless ordered by a majority vote of the Council.

7.2 Document Approval

All ordinances, resolutions, and contracts shall, before being placed on the agenda, be approved as to form and legality by the City Attorney. All documents shall be reviewed by the City Manager.

7.3 Ordinance Introduction/Adoption

A proposed ordinance will be read by title only unless a Councilmember disagrees that the ordinance can be read by title only and requests a full reading. Ordinances introduced by first reading shall not be adopted within five days of the introduction, nor at other than a regular or an adjourned regular Council meeting. If the ordinance carries an urgency clause, introduction and adoption may occur at the same meeting. After an ordinance has been introduced for first reading, it can be placed on the Consent Calendar

for adoption at a subsequent meeting. Voting requirements are contained in Article 12 herein.

7.4 Ordinance Preservation

Following adoption of an ordinance, the City Clerk will assign it a number and post it according to state law. All ordinances are filed and preserved in the City Clerk's Office.

8.0 PROCEDURES REGARDING PUBLIC HEARINGS

8.1 General

When public hearings are required by law and involve the adjudication of individual property rights and interests, they are considered to be quasi-judicial proceedings in which the individual has due process rights. Accordingly, such hearings need to be conducted formally and with due process to protect the rights of all persons. Applicants are entitled to a decision by an unbiased body which has not prejudged the matter before hearing all evidence relevant to the decision to be made.

8.2 Staff and Written Material Presentation

(a) *Staff Report.* Staff reports, which shall include the findings and determinations that the Council is required to make, included in the agenda packet, along with written comments (e.g. protests, etc.) which have been received, are noted for the record, and received and filed.

(b) *New Written Material.* Written material not in the agenda packet, if any, is received and filed.

(c) *Oral Report.* Oral staff reports, if any, are presented by a staff member, unless waived by the Council.

(d) *Council Questions of Staff.* Prior to hearing public testimony or comments, Councilmembers are encouraged to raise factual issues or questions which can clarify and identify issues of concern. Councilmembers shall refrain from asking questions or expressing opinions which tend to show the Councilmembers have formed opinions before the hearing has been conducted and public testimony received.

(e) *Record.* All the aforementioned materials shall be deemed a part of the public record, even though the public hearing is not opened until conclusion of the staff report. All discussions following the close of the hearing are also a part of the record of the matter.

8.3 Public Hearing

(a) *Hearing.* Following the presentation of the staff report, the Presiding Officer shall open the public hearing in order to take testimony from members of the public

who wish to testify in support or opposition to the matter being heard. The Presiding Officer may establish an order for speakers, such as those in favor or opposed.

(b) *Procedures.* Based on the number of persons wishing to speak, ground rules can be set as long as they are evenly applied, limiting speaker times, providing for representative speakers and so forth. The Presiding Officer's instructions to the audience may vary and will depend upon the issue being discussed. Generally, the instructions will follow these general guidelines:

- (1) Participants must speak from the podium;
- (2) The normal time limit for each speaker is three minutes;
- (3) The testimony should be relevant;
- (4) Repetition should be avoided;
- (5) Speakers will be discouraged from reading a submission that is already contained in the agenda materials;

(c) *Speaker Time.* Although the normal time limit is three minutes for each speaker, the Presiding Officer may grant additional time to a representative speaking for an entire group. However, this should not discourage anyone from addressing the Council individually. Speakers may not allocate or assign their time to another speaker. absent approval by the Presiding Officer.

(d) *Principal Parties 10 Minutes Each.* The appellant or their representative speaks first and will generally be allowed ten minutes. If the applicant is different from the appellant, the applicant or their representative will speak following the appellant and will also be allowed ten minutes to make a presentation. Other public speakers will follow the presentation by the appellant and the applicant. Normally, the applicants and appellants will be limited to a three minute rebuttal, if requested after all other interested persons have spoken.

(e) *Questioning Speakers.* The Council will generally reserve questioning of individual speakers until after the completion of the speaker's testimony. Questions still need to be factual and without bias until the hearing is concluded and all testimony is received. Questions of staff should not be interjected when speakers are questioned and questions of staff shall occur after the close of the hearing.

8.4 Council Deliberations

(a) *Closure of Hearing.* After the Presiding Officer has determined that there is no more public testimony, the hearing will be ordered closed and the Council will then deliberate on the matter. After the hearing is closed, there should be no further public testimony unless the Presiding Officer reopens the hearing.

(b) *Answering Speaker Questions.* At the Presiding Officer's discretion, after the close of the hearing, staff and/or Council may answer questions posed by speakers during their testimony.

(c) *Questions by Council.* The Council may also ask staff to address questions raised by the testimony, or to clarify matters.

(d) *Debate.* The Council will then debate and/or make motions on the matter.

(e) *Member Limitations.* During Council deliberations, the Presiding Officer will allow each Councilmember to speak once prior to allowing another Councilmember to speak again. Councilmembers should strive to avoid repetition. Councilmembers are permitted to ask questions of each other or debate relevant issues as part of their deliberations.

8.5 Council Action

(a) *Continuance.* The Council may reopen and continue the hearing or continue the matter without reopening the hearing.

(1) The matter should be reopened if any additional information is requested to allow testimony on the new information when it is obtained.

(2) Continuing a public hearing to a specific date does not require additional notice but would be re-noticed if no specific date is identified.

(b) *Actions.* The Council may:

(1) Vote on the item;

(2) Offer amendments or substitute motions to decide the matter;

(3) Reopen the hearing for additional testimony;

(4) Continue the matter to a later date for a decision. No additional testimony may be received if the hearing is not continued.

(c) *Findings.* Councilmembers should generally explain their actions in quasi-judicial matters, and should make appropriate findings to support their action. Written resolutions may be adopted or prepared for a subsequent meeting.

(d) *Tie Votes.* A tie vote is, in effect, a denial of the matter. In the event of a tie vote, (i) if a Councilmember was absent, or (ii) if it was a quasi-judicial matter, the matter will be automatically continued to the next meeting without reopening the hearing. No motion to reconsider is required.

8.6 Extra-Meeting Contacts on Matters Set for Public Hearing

(a) *Minimize Contact.* Councilmembers should minimize their contacts with developers, applicants, or other persons who will be the subject of a quasi-judicial public hearing to be heard before the Council. Councilmembers should avoid extra-meeting contacts with persons who will be the subject of a public hearing before the body or with advocacy groups or special interest groups.

(b) *Any Extra Meeting Comments Noncommittal.* If a Councilmember is contacted directly by such person outside the meeting setting, the Member shall refrain from expressing any viewpoints or thought processes to the person until after the public hearing. The Councilmember may explain that they are unable to express any viewpoint on the matter until all evidence has been heard in the course of a public hearing and should encourage any such person to present their position in writing or orally at the public hearing.

(c) *Disclosure.* At the commencement of the public hearing, the Councilmember must disclose publicly any extra-meeting contacts or discussions which may be relevant to the decision.

(d) *Inspection.* The limitations set forth in this Section shall not be read as preventing a Councilmember from inspecting a site that will be relevant to a public hearing, although such sight inspection should be disclosed on the record at the beginning of the public hearing.

9.0 **CENSURE OF MEMBERS**

9.1 Grounds for Censure

It shall be a violation of this section for any sitting Councilmember to violate any general law or regulation, and any rule, law, ordinance or resolution of the City of Rancho Palos Verdes. It shall also be a violation of this section for any sitting Councilmember (i) to violate an administrative policy of the City which has been adopted following a vote of the Council on the matter, or (ii) to act to impede the carrying out of any lawful administrative action of the City Manager undertaken to carry out any approved policy or rule of the City.

9.2 Censure Defined

Any violation of Section 9.1 by a Councilmember may be reprimanded through the administration of a public censure of the member by the Council. Such censure may be in addition to any other lawful action or punishment applicable to the violation. For purposes of this section, "censure" shall mean the adoption of a motion setting forth a formal statement of disapproval of a Councilmember's conduct.

9.3 Censure Considered in Indemnification

When evaluating a request for defense or indemnification made by the censured member in litigation arising from the censured conduct, the record of the censure shall be considered by the Council. Such record shall not be determinative. Failure of the Council to censure the conduct of a member does not constitute a waiver of the body's right to refuse to indemnify or defend the member in an action.

9.4 Notice and Opportunity to Cure

A Councilmember may not be made the subject of a motion for censure without first being given notice of the alleged violation and an opportunity to correct the violation, if it can reasonably be corrected.

9.5 Initiation of Proceedings

Upon a continued violation or failure to correct, the charged Councilmember shall be given notice and an opportunity to be heard as follows:

(a) *Initiated by Member.* Only a sitting Councilmember may initiate proceedings for the censure of one of its members.

(b) *Statement of Charges.* Proceedings shall be commenced by the presentation of a written statement of charges to the subject Councilmember with a copy delivered concurrently to the City Clerk by the member initiating the charge. Initiation shall not require the prior approval of the Council. The statement of charges shall be given at least ten (10) days prior to the meeting at which the censure motion is proposed to be brought. The notice shall contain, at a minimum, the designation of the specific rule, law, regulation, etc., which the member is claimed to have violated and a statement of the date, place and time at which such violation occurred. The statement shall further contain a description of the conduct of the member which is alleged to constitute the violation. A copy of the statement of charges shall be delivered to all other Councilmembers.

(c) *Response.* Within seven (7) days after delivery of the statement of charges, the charged Councilmember should deliver a written response to the other members of the Council unless the charged Councilmember chooses to defer the response to the hearing.

9.6 Hearing

(a) *Generally.* The motion for censure shall be agendaized and considered at the first regular meeting occurring at least ten (10) days following the delivery of the statement of charges to the charged Councilmember and City Clerk. The hearing may not be continued except upon the absence from the meeting of a member of the Council other than the initiating Councilmember or the charged Councilmember.

(b) *Open Hearing.* The hearing shall be conducted in an open session by the Mayor unless the Mayor is a party to the action, in which case the Mayor Pro Tem or some other member shall conduct the proceedings.

(c) *Procedure.* The hearing shall generally proceed by a reading of the charges by the initiating Councilmember. The charging Councilmember may present witnesses; the charged Councilmember may answer in rebuttal; members of the public may speak in favor of or in opposition to the charge; and the remaining Councilmembers may speak to the charges in that order.

(d) *Voting.* Passage of the motion for censure shall require a majority vote of the Council. The voting Councilmembers shall not recess to closed session for deliberation.

9.7 Failure to Censure

If the motion for censure does not pass, the proceedings shall be concluded. A new motion for censure on the same grounds of violation may not thereafter be commenced against the same Councilmember for a period of one (1) calendar year from date of the vote. However, new proceedings may be commenced on the same charges within the one (1) year period on the affirmative or unanimous vote of the non-charged Councilmembers.

9.8 Sanctions

If the motion for censure does pass, such motion shall become a part of the public record, a copy of which shall be made available upon demand to any member of the public, subject to the City's Uniform Schedule of Fees, and notice of same shall be placed in the administrative file of the Councilmember. The Council may impose any sanctions authorized by law in conjunction with the censure of a Councilmember. Additional sanctions may be imposed if the initial sanctions are ineffective.

10.0 **BOARDS, COMMISSIONS, COMMITTEES, AND SUBCOMMITTEES**

10.1 Mayor/Council Committees

At the first or second meeting in January of each year, subject to ratification by the Council, the Mayor shall appoint Councilmembers to serve as delegates, representatives and/or alternates on various committees, which require a Council representative. Generally, appointments should recognize the interest and availability of the proposed appointee and fairly distribute the workload amongst the Councilmembers.

10.2 Creation of Advisory Boards and Committees

(a) *Creation.* The Council may create boards, commissions, or committees to act as advisory boards to the Council. Creation may be by ordinance or resolution specifying the duties of the body in the case of permanent bodies, or by motion in the case of ad hoc bodies.

(b) *Appointments.* The Council must and will make appointments to citizen City boards, commissions, and committees ***pursuant to City Council Policy No. 6.*** All applicants ~~will~~**may** be interviewed by the Council at a public meeting and shall be

appointed by a majority vote of the Council. All appointees serve at the pleasure of the Council. The procedure of filling vacancies and provision of notice thereof shall be subject to the provisions of the Maddy Act (Govt. Code §§ 54970-54974) which require a 10-day notice of the availability of the position for appointment.”

(c) *Duties.* Other than the Planning Commission, whose duties are specified in the RPVMC and the California Government Code, the primary purpose of City boards, commissions, and committees is to act in an advisory capacity as deemed appropriate by the Council. The Council shall provide specific direction to each board, commission, or committee as to what tasks or projects the Council desires the body to accomplish and the method by which the body will report to the Council on their activities. The City Manager shall assign a staff member to assist each body and to provide necessary support. Should the City Manager believe that a request by the body is/are either inappropriate or excessive, the City Manager may bring the matter to the Council’s attention.

(d) *Advisory Formation.* City boards, commissions, and committees are merely advisory to the Council and have no authority to commit City resources such as personnel, time, materials, or money without the approval of the Council. They provide the residents’ perspective and assimilate information from staff, consultants, and the public. Just as they are not authorized to make policy decisions for the Council, members of boards, commissions, and committees are not expected to take the place of staff or do work that is more properly handled by staff.

(e) *Removal and Dissolution.* Absent any other provision to the contrary, members of boards, commissions, and committees may be removed by the Council, without cause, by a majority vote of the whole Council. Any Councilmember may place the question of such removal on an agenda. Any boards, commissions, or committees so created, may be abolished by a majority vote of the members of the Council by repeal of the enacting ordinance or resolution.

10.3 Council Subcommittees

(a) *Establishment.* Council Subcommittees, either standing or ad hoc, may be created by the Council from time to time, and shall be composed of two Councilmembers. They may also include members of a commission or committee if deemed appropriate by the Council. If standing committees are comprised of members not on the Council, they may be subject to the agenda and public meeting requirements of the Brown Act. Ad hoc subcommittees have a limited duration and scope under the Brown Act. The Council shall have the power to establish advisory boards, commissions, and committees. Any committee which is (i) established by ordinance, resolution or other formal action, or (ii) has a fixed regular meeting schedule, or (iii) has continuing subject matter jurisdiction over a non-temporary issue, or (iv) which continues to conduct business in excess of 180 days, or (v) has a majority membership of officials from other legislative bodies, shall be subject to the provisions of the Brown Act.

(b) *Duties.* Council Ad Hoc and Standing Subcommittees shall be established for specified purposes to gather information and report back to the full Council. Council Subcommittees shall work collaboratively with staff in an expeditious and deliberate manner, subject to instructions from the full Council on the extent and duration of the Subcommittee's actions.

(c) *Staff Support.* Financial considerations must be taken into account regarding allocation of staff time. The City Manager shall provide staff support, including a staff liaison to provide feedback and offer expertise as deemed appropriate by the City Council in achieving the goals specified by the Council.

(d) *Reports.* Timely Subcommittee reports shall be conveyed to the full Council as deemed appropriate by the Council and/or the Subcommittee during the Council Reports section of the Council agenda. Council should respect the Subcommittee framework and offer input to the process through its two members. The Council Ad-Hoc and Standing Subcommittees should strive to keep all Councilmembers and the public apprised of Council Ad-Hoc and Standing Subcommittees actions and accomplishments.

10.4 Use of Email

All members of commissions, committees, and boards are subject to the same rules regarding use of email as are Councilmembers. Mandatory use of the @rpvca.gov email accounts will be effective April 18, 2018.

10.5 Defense and Indemnification

The City shall defend and indemnify all members of commissions, committees, and boards to the same extent, and subject to the same limitations, as Councilmembers.

11.0 PUBLIC RECORDS AND USE OF EMAIL

11.1 General. The City's policies at one time segregated city and/or personal emails on the basis of whether they are/were generated through the City email domain/account (@rpvca.gov) or personal accounts, but recent legal decisions (City of San Jose v. Superior Court, 389 P.3d 848 (2017)) distinguish only by whether the content of the email relates to City business. While emails sent to Councilmembers, commissioners, committee members, and board members (collectively, "City Officials") through their City email accounts are clearly public records, as are replies or subsequent email exchanges related to those "@rpvca.gov" emails, Councilmembers should be aware that irrespective of what server the email is on, whether the City email account or a personal account, if the email is related to City business, it is a public record subject to disclosure unless an exception applies.

11.2 Must Use City Email Account. All City Officials are provided with an @rpvca.gov email account, and must and will only use this account for City business. Personal accounts should not be used for City business and if they are, in the event of a public records request, the personal account will be subject to review and disclosure of City-related emails.

11.3 Use of Private Email Accounts Prior to the Adoption of These Rules. City Officials must and will segregate all City business emails that predate the adoption of these rules into a separate folder so as to preserve the emails. All emails must be preserved in compliance with the City's Records Retention Policy. Use of email accounts in violation of this policy, or failure by a City Official to cooperate fully in turning over any City business emails maintained solely on a personal email account, shall be grounds for removal from any City boards, commissions, or committees and, in the event of a violation by a member of the City Council, shall be grounds for censure. All costs incurred by the City to obtain compliance by the City Official shall be subject to cost recovery by the City.

11.4 Public Records Requests. Pursuant to the California Public Records Act (the "PRA" Govt. Code §§ 6250 et. seq.) individual City Officials must and will produce to the City Attorney's office for review any records that are responsive to a public records request, and where the City did not retain a copy.

The City Attorney's office will review any such records or communications to confirm that they relate to the City's business, are not exempt from disclosure under the PRA, and are responsive to the request.

11.5 Staff to Review City Accounts. In the event the City receives a PRA request seeking City Official communications, staff will research the City's email server for responsive emails that went through an "@rpvca.gov" email address.

11.6 Emails in Possession of Councilmember. Further, any emails exclusively in the possession of individual City Officials must and will be produced by each City Official for review by the City Attorney's office, if the emails are responsive to a public records request.

11.7 City Attorney Review. Just as with non-email communications, the City Attorney's office will review the emails to confirm that they relate to the City's business, are not exempt from disclosure under the PRA, and are responsive to the public records request. Any emails that fail one of those tests will not be produced.

11.8 Definition of Public Records. The PRA defines local public records as follows: "'Public records" includes any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. . ." Govt. Code § 6252(e).) The PRA requires the City to disclose upon request public records that are within the possession of the City and are not exempt from disclosure. It is the policy of City to conduct its business in conformance with the Public Records Act.

11.9 Exceptions

In the event the City's email server is down and the City Official needs to use email to conduct City business, the City Official may use a personal email account until the City's email is fully functional. Any such emails must be segregated into a separate folder within the email account and must be turned over to the Information Technology Manager within 30 days.

12.0 DEFENSE AND INDEMNIFICATION OF MEMBERS

12.1 General. Councilmembers and members of boards, commissions, committees and advisory bodies are not vicariously liable for injuries caused by the body (Tort Claims Act (the “Act”); Govt. Code § 820.9) and are “employees” within the meaning of the Act. Section 995 of the Act imposes upon the City the duty to “provide for the defense of any civil action or proceeding brought against him/her, in his/her official or individual capacity, or both, on account of an act or omission in the scope of his employment as an employee of the public entity.” The City can refuse to defend an employee or former employee if: (i) the act or omission was not within the scope of his or her employment; (ii) he or she acted or failed to act because of actual fraud, corruption, or actual malice; or (iii) the defense of the action or proceeding by the public entity would create a specific conflict of interest between the public entity and the employee or former employee, as defined. Gov’t Code § 995.2(a).

12.2 Grounds for not Defending; Scope of Duties

The Councilmembers’ scope of duties is defined by the applicable provisions of the Government Code, the Rancho Palos Verdes Municipal Code, and all Council adopted rules as applicable to the Council. Acts or omissions in violation any of these regulations fall outside of a Councilmember’s scope of duties.

12.3 Cooperation in Councilmembers’ Defense

Section 825 of the Act requires that in order to receive defense by the City, an employee or former employee must reasonably cooperate in their defense by the City. This includes, but is not limited to, prompt and complete responses to inquiries/requests for information and documents by the City Attorney’s Office, including discovery requests. This cooperation would also include pre-litigation acts such as complying with public records requests.

12.4 City’s Duty to Defend – Limitations

Any Councilmember or former Councilmember who is acting outside the scope of his or her duties, or who does not cooperate with his or her defense or the defense of City, may, at the Council’s sole discretion, be provided with written notice and an opportunity to cure. The Council shall retain absolute discretion to refuse to defend and/or indemnify any Councilmember acting outside the scope of his or her duties, or a Councilmember who does not cooperate in his or her defense or the defense of City.

12.5 Reservation of Rights by City

Any defense or indemnification provided by the City shall be subject to the City’s right to require the employee or former employee to enter into a reservation of rights agreement, as authorized by Section 825 of the Act. An agreement to this effect shall be a condition of any defense or indemnification. Such agreement reserves the right not to defend or pay any judgment, compromise, or settlement until it is established that it arose out of an act or omission occurring within the scope of employment as a public employee.

Through the agreement the City may recover any costs, including attorney fees, incurred prior to the exercise of the right.

13.0 SUSPENSION AND AMENDMENT OF THESE RULES

13.1 Suspension

Except as required by State law, any provision of these Rules not mandated by the RPVMC or the California Government Code may be temporarily suspended by a majority vote of the Councilmembers who are present.

13.2 Amendment

These Rules may be amended by additions or deletions or new rules adopted by a majority vote of the members of the Council, provided the proposed amendment or new rules are introduced into the record and properly agendized at a prior Council meeting.

14.0 MOTIONS AND VOTING

14.1 Table of Motions

Incorporated herein is the Table of Motions attached as Exhibit A.

14.2 Motion to be Stated

The City Clerk shall state all motions submitted for a vote and announce the result.

14.3 Voting

(a) *Consensus.* After a full opportunity for debate, if it appears that there is a consensus of opinion among the Councilmembers on the matter to be voted upon, the Presiding Officer may state the consensus of the Council and ask if there is any objection. If there is no objection, the consensus, as so stated, shall become the order of the Council and the votes of the members shall be deemed and reported as in favor for all those present. The Presiding Officer may also determine that a consensus exists following a call for a vote by any member of the Council by a Motion to Call the Question¹.

(b) *Roll Call.* Roll call votes shall be required for adoption of ordinances, adoption of resolutions, approval of agreements and actions involving the payment of money. Upon demand by a Councilmember, a roll call vote shall be taken on any motion

¹ Making the motion suggests that you would like to stop debate and vote. A motion to Call the Question requires a second, and cannot be discussed or debated. Must be recognized by the Presiding Officer. The vote is taken immediately. Requires 2/3 vote to pass. If the motion to Call the Question passes, a vote on the motion on the floor is taken. If the motion to Call the Question fails, discussion on the motion on the floor continues.

before the Council. The order voting shall be at the discretion of the City Clerk with the Mayor Pro Tem's name called second to last and the Mayor's name last. The City Clerk shall call the names of all members seated when a roll call vote is ordered or required. Members shall respond 'yes', 'no' or 'abstain.' After every vote, the City Clerk shall declare the result. The ayes and noes shall be taken upon the passage of all ordinances and resolutions and entered upon the official record of the Council. Councilmembers shall not be required to give explanations of their vote during roll call.

(c) *Silence.* During a collective vote (Ayes and Nays), silence of any Member denotes approval.

14.4 Votes Needed

(a) *Majority of Quorum.* Usually, in the absence of a contrary statutory provision (such as urgency measures), a majority of a quorum may act for that body. However, resolutions, or orders for the payment of money, and all ordinances require a recorded majority vote of the total membership of the Council.

(b) *Supermajority Vote.* State law may dictate certain instances in which the number of votes required is greater than a majority of all Councilmembers. Some of the questions on which the voting requirement is varied by State statutes and these rules and include, without limitation, the following:

(1) *Levying Taxes—Generally.* Ordinances providing for the Assessment and collection of taxes require the approval of two-thirds of the members of the total members of the Council.

(2) *Assessment—Generally.* Assessments require a two-thirds vote of the total membership of the Council.

(3) *Bonds and Certificates of Participation.* In authorizing these financial instruments, the issuing requires a two-thirds vote of the total membership of the Council.

(4) *Eminent Domain.* The exercise of Eminent Domain requires a two-thirds vote of the total membership of the Council.

(5) *Certain Parliamentary Motions.* Motions requiring a supermajority vote are noted in the Motions Chart attached hereto as Exhibit A.

(c) *Conflicts.* Any official with a conflict of interest is not counted for purposes of establishing a quorum, and must not vote on, make, participate in any way in, or attempt to influence the decision. A Councilmember abstaining on grounds other than a conflict under the Political Reform Act shall be counted as present for purposes of a quorum and such abstentions are counted as voting with the majority. The Councilmember who leaves the dais solely to avoid participating in a specific item shall, in absence of a conflict, be counted as if they were present but abstaining.

14.5 Abstentions

(a) *Generally.* Councilmembers are discouraged from abstaining from a vote for reasons other than a legally-disqualifying, financial conflict of interest. However, if a member chooses to abstain from voting as a result of what he/she perceives as a personal or non-financial conflict of interest, the member may do so after stating for the record the nature of the perceived conflict. In the event of an abstention due to a perceived conflict (as opposed to a legally-disqualifying conflict), the member is not required to leave the dais.

(b) *Participation Encouraged.* A Councilmember shall generally participate in the matter and vote except those where they are required to abstain due to legally recognized conflict of interest or common law bias.

(c) *Appeals.* A City Councilmember who has appealed the action of any person or body of the City on a matter which does not constitute a conflict of interest for the member under any law, may participate in the hearing on the appeal, unless there is clear and convincing evidence that such member is not objective or the member feels that they are unable to remain neutral, or as may be otherwise advised by the City Attorney. Notwithstanding any contrary provisions herein in bringing an appeal, the City Council member need not give reasons for making the appeal.

(d) *Public Perception.* A Councilmember may abstain from action on a matter where, in the member's opinion, there would be a public perception that participation in the discussion or decision would be inappropriate constituting common law bias even though the member has no disqualifying financial interest within the meaning of FPPC rules and regulations.

(e) *Effect.* The abstention is a non-vote unless the voting requirement is a supermajority, or a vote of those "present", in which case the abstention has the effect of a "no" vote. The Presiding Officer shall call for a roll call vote to determine if the ruling is upheld.

14.6 Motion to Reconsider

Any Councilmember who voted with the majority may move to reconsider any action at the same meeting or, within sixty (60) calendar days, make a request in writing to the City Clerk that it be agendized for consideration at the following meeting, provided that reconsideration shall not be permitted where a party other than the City has acted in reliance on the Councilmember's action and would be substantially prejudiced by such reconsideration. The Clerk shall apprise the City Attorney of any facts constituting substantial prejudice and may rely upon the determination of the City Attorney. In the event that the subject of the reconsideration is a motion that failed as the result of a tie vote, any Councilmember who voted against the earlier motion may move for reconsideration at the following meeting. The member seeking reconsideration must have the matter agendized unless the motion will be made at the same meeting where the original action was taken. If the motion to reconsider passes, then the original item may

be reconsidered at that time or agendized for a future meeting which meets any applicable noticing requirements. After a motion for reconsideration has once been acted upon, no other motion for reconsideration thereof shall be made without unanimous consent of the City Council.

14.7 Votes of Members Previously Absent

(a) *Minutes.* A Councilmember who was not present at a meeting should generally not vote on the approval of minutes for that meeting, but the voting on such minutes shall have no effect on the validity of the minutes.

(b) *Initial Absence.* A Councilmember may vote on a continued item after an absence from the earlier meeting in which the matter was agendized, if, prior to the vote, the member affirms on the record that they have familiarized themselves with the record of the earlier meeting and are prepared to vote on the issue.

14.8 Precedence of Motions

When a motion is before the Council, no motion shall be entertained except a:

(a) *Motion to Amend.* A motion to amend is debatable only as it relates to the amendment. An amendment that modifies the motion is in order; however, a substitute motion is in order if the intent of the original motion is changed. Amendments are voted on first; with the main motion vote last. A motion may be amended more than once with each amendment being voted on separately. There shall only be one amending motion on the floor at any one time.

(b) *Motion to Postpone.* A motion to postpone indefinitely is debatable. If such a motion is adopted, the principal question is lost. A motion to postpone to a definite time is subject to debate and amendment as it relates to propriety of the postponement and date set.

(c) *Motion to Table.* A motion to table requires a second and a majority vote of the Legislative Body, is undebatable, and is not subject to amendment. The purpose of a motion to table is to postpone or suspend consideration of a pending motion. If a motion to table is adopted, the item may be taken from the table at any time prior to the adjournment of the next regular meeting. If the item is not taken from the table in the time specified, the item is killed.

(d) *Substitute Motion.* A substitute motion is used to propose an alternative action to the main motion. Up to one main and two substitute motions may be on the floor at one time. If a substitute motion passes, it does away with the prior motions. If it fails, previous motions, including prior any substitute motion, comes back up for consideration.

15.0 BROWN ACT DEMANDS FOR CORRECTION

15.1 Requirement of Written Demand

(a) *Written Demand for Correction.* Pursuant to Section 54960.1 of the Government Code, prior to any person commencing a judicial action for injunction or mandamus to declare any action taken by the Council void because of failure to observe Brown Act requirements, such person must first serve upon the City Clerk a written demand clearly describing the challenged action, the nature of the claimed violation, and the corrective action sought. Such demand must be served upon the City Clerk within ninety (90) days of the alleged violation or thirty (30) days if the action was taken in open session but alleged to be in violation of § 54952.2 of the Government Code. Failure to serve any such demand within this thirty (30) day period shall result in the loss of any right to challenge any action alleged to have been taken in violation of §§ 54953, 54954.2, 54954.5, 54954.6, 54956, or 54956.5 of the Government Code.

(b) *Period to Cure.* If the written demand is timely served, the Council has up to thirty (30) days to cure and/or correct its action. If the Council does not act, any lawsuit must be filed within the next fifteen (15) days. The subsequent action to cure or correct an action shall not be admissible as evidence of a violation.

(c) *Not Void Obligations.* Nothing herein shall void the issuance of bonds or contractual obligations otherwise duly entered into.

(d) *Other Remedies.* Nothing herein shall prohibit any other remedy permitted by the Brown Act, including the issuance of an unconditional commitment to cease and desist violations under Section 54960.2.

(e) *Tolling Agreements.* Parties may enter tolling agreements of the time periods provided herein.

15.2 Consideration of Corrective Action

(a) *Closed Session.* Upon receipt of such a demand, consideration of the demand shall immediately be placed on the agenda for the next meeting of the Council. If the demand is received less than 72 hours prior to the time set for the next meeting, the Council may determine that the notice constitutes the initiation of litigation, and that the need to take action on the threatened litigation arose subsequent to the posting of the agenda, and may consider it at that meeting in closed session pursuant to Article V Section 5.1, above. A description of any item so placed on the agenda shall include both consideration of the demand, and the possibility of corrective action by the Council.

(b) *Reconsideration.* In considering demands for reconsideration, the Council shall first determine by motion whether to reconsider the prior action. The motion to reconsider shall be in order as long as made by a party on the prevailing side. If no motion to reconsider is carried, the City Clerk shall inform the demanding party in writing of the Council's decision not to cure or correct the challenged action.

15.3 Implementing Corrective Action

(a) *Motion to Correct.* If a motion to reconsider passes, the Presiding Officer may entertain a motion to take corrective action. Any motion taking corrective action shall address the concerns raised in the consideration of corrective action. The motion taking corrective action may include a motion to rescind prior action taken, as appropriate. Passage of a motion to rescind invalidates prior action only as of the time of the passage of the motion, and not from the date of the initial action. A motion implementing corrective action resulting from a written demand is out of order if the action complained of: (i) was in connection with the sale or issuance of notes, bonds, or other evidences of indebtedness, or any contract, agreement, incident thereto; (ii) gave rise to a contractual obligation upon which a party has, in good faith, detrimentally relied upon; or (iii) was taken in connection with the collection of any tax.

(b) *Notice.* In any event, the Council shall notify the party making the demand, in writing, of its decision to take corrective action, and shall describe any corrective action taken. This notice shall be given to the demanding party as soon as possible after the meeting, but in no event more than 30 days after receipt of the demand.

16.0 CODE OF CONDUCT

16.1 Statement of Purpose

This Article 16 shall be known as the Code of Conduct for Officials of the City of Rancho Palos Verdes. The purpose of this Code of Conduct is to create a single comprehensive protocol for the Council and Members of City Boards, Commissions and Committees, and also for management and representatives of the City including vendors² (hereinafter referred to collectively as "Officials") to ensure the efficient, effective and ethical operation of this municipal government. As a statement of purpose, this policy also recognizes that the proper operation of this municipality requires that all of its Officials be independent and impartial in their judgment and actions; that public office not be used for personal gain; that the public have confidence in the integrity of its Officials; and that public deliberations and actions be conducted in an atmosphere free from personal animosity and hostility.

16.2 General

(a) As a matter of practice, this policy should be read and reviewed periodically by all Officials.

(b) Not all conduct, actions and/or behavior fit neatly within this Code. The protocols listed herein are designed to clearly define conduct in most common situations. Special circumstances may not be easily resolved by simply referring to this

² These programs as to ethical conduct and civility towards the public shall be applicable to vendors through their contracts with City.

Code. The Council can provide specific interpretation through review with the City Attorney, as necessary.

(c) In this City's Council/Manager form of government, the City Manager is the "administrative head" (Municipal Code Section 2.08.070) of the City government under the direction and control of the Council. The Council is the chief policy-making body of the City. Direction to the City Manager on policy matters and issues shall occur at regular and/or special sessions by a majority of the Council.

16.3 Rules of Civility

(a) *General.* The proper operation of this local government requires that its Officials be independent, impartial, accountable and responsible to its residents; that its public Officials strive to cooperate and work together for the common good of the City; that decisions and policy be made in the proper channels of the government structure; that an Official's position not be used for personal gain; and that the public have confidence in the integrity of its Officials.

(b) *Duties of Officials.*

(1) At all times during the performance of their City duties, Officials shall adhere to their oath of office (Cal. Const. Art. XX Section 3) and comply with all State ethics laws for Officials.

(2) Officials shall faithfully perform all duties of office, and shall show respect for their offices and not act in ways that reflect badly on those offices and diminish public respect for the office, or the City.

(3) Officials shall faithfully attend all sessions of the Council, Commission or Committee of which the person is a member, unless unable to do so for some compelling reason or disability.

(4) Officials shall be prepared, and learn and study the background and purposes of items that are on the agenda before voting. To the extent possible, questions pertaining to agenda items should be raised with appropriate staff and the City Manager prior to the meeting where the item will be discussed.

(5) Officials shall respect intergovernmental relationships between the City and other neighboring cities, the County of Los Angeles, the State of California, and the federal government. The City also recognizes the value of municipal organizations and associations, including the League of California Cities, California Contract Cities Association, South Bay Cities Association, etc., and Officials should participate in the meetings and seminars of such bodies when appropriate.

(6) Officials shall advise appropriate staff when a quorum of the Council or a Council standing sub-committee, or a quorum of a City Commission or Committee, meets with another governmental agency's officials, citizen groups, homeowners' associations, county or contract officials, development applicants, etc., to

insure proper notice of such meetings is given in accordance with the provisions of the Ralph M. Brown Act. Members of the public may attend any such meetings.

(c) *Ethical Standards.*

(1) Officials shall provide fair and equal treatment for all persons and matters coming before the Council, Commissions or Committees. No Official shall grant any special consideration or advantage to any citizen beyond that which is available to every other citizen.

(2) Officials shall accept as a personal duty the responsibility to conduct the City's business with professional competence, fairness, impartiality, efficiency and effectiveness.

(3) Officials shall preserve their integrity and not be affected by improper influence. They shall refrain from making, participating in making, or using his or her official position with the City to influence any governmental decision directly relating to any person or entity with whom he or she is negotiating concerning prospective employment or any other prospective business relationship that will be a source of financial gain to the Official.

(4) Officials shall refrain from using City-owned equipment, materials or property for personal purposes, except when such equipment or property is available to the public generally, or is provided to City Officials pursuant to City policy, and is used in the conduct of City business.

(5) Officials shall refrain from disclosing confidential information that is learned during a closed session held in accordance with the Ralph M. Brown Act (Cal. Govt. Code Section 54950, et seq.). The Council or any of the City's Commissions or Committees must refrain from disclosing information that is subject to the City's attorney client privilege, unless disclosure is specifically authorized by a majority vote of the Council. The provisions of Section 3.6 shall apply to any breach of confidentiality. This applies to members of the Council, the City Manager and staff, as well as members of the City's Boards, Commissions and Committees.

(6) Officials shall disclose any corruption, fraud, and bribery to appropriate authorities.

(d) *Rules of Conduct.*

(1) Officials shall listen carefully, courteously and attentively to all public discussions at Council, Board, Commission or Committee meetings and avoid interrupting other speakers, including other Officials, staff, or the public.

(2) Officials shall foster a positive attitude and constructively foster open communication in dealing with the public, staff and all Officials. Officials should keep an open mind in dealing with issues and attempt to work out solutions and/or compromises that meet the needs and interests of all parties.

(3) Officials shall listen to all testimony, and not reach conclusions on issues until all interested parties have had an opportunity to express their position, or otherwise act in a manner that would affect a party's right to a fair hearing.

(4) Officials shall use their best independent judgment to pursue the common good, presenting their opinions to all in a reasonable, forthright, consistent manner; and making decisions which will promote the general and long-term interests of the City and its citizens.

(5) Officials shall refrain from abusive conduct, personal charges or verbal attacks upon the character, motives, ethics or morals of other Officials staff or the public, or from making other personal comments that are not germane to the issues before the respective body. Name calling, personal invective, and derogatory or belittling speech is never acceptable conduct for Officials of the City.

(6) Officials shall at all times act with integrity and trustworthiness, and they shall behave with courtesy and respect toward everyone with whom they interact.

(7) Officials shall promote, to the greatest extent consistent with protecting the interests of the City, transparency and good leadership, and provide effective communications with the public.

(e) *Application.* Officials should avoid impropriety in the exercise of their official duties. Actions as Officials should be above reproach. Although opinions may vary about what behavior is inappropriate, Officials will consider impropriety in terms of whether a reasonable person who is aware of all of the relevant facts and circumstances surrounding the Official's action would conclude that the action was inappropriate.

(f) *Collegiality.* All Officials are representatives of the public, and as representatives and servants, should treat each other and those they represent consistent with such high principle. Officials should be able to assert policy positions and opinions without fear of reprisal from fellow Officials or citizens. Officials should not question the ethics of other members because they disagree with that member on a question of policy.

(g) *Legal Counsel.* If an Official believes that his or her actions, while legal and ethical, may appear to be inappropriate, the Official should seek the advice of the City Attorney, and should consider publicly disclosing the facts of the situation and the steps taken to ensure the action is appropriate.

(h) *Public Records.* All Officials shall conduct their email correspondence so that they may readily comply with requests for public records, and keeping personal correspondence segregated from city correspondence.

16.4 Disclosure of Information

No Official may, without prior formal authorization of the City Council, disclose any confidential information concerning any other official or employee, or any other person,

or any property or governmental affairs of the City. Whether or not such information is allowed to be disclosed, no Official may use or permit the use of any such confidential information to advance the financial or personal interest of himself or any other person. For the purposes hereof, "confidential information" shall mean information that is not generally known in the public, and/or not subject to disclosure under California Public Records Act or other applicable law. Some examples of confidential information include attorney-client privileged communication, attorney-client work product, and personnel, medical or similar information, the disclosure of which would constitute an unwarranted invasion of privacy. (Govt. Code § 6250 et. seq.)

16.5 Improper Representation

Unless authorized to do so by the Council, Officials shall refrain from making statements, either orally or in writing that assert or would cause a reasonable person to believe that they are acting on behalf of the City. Accordingly, if an Official testifies, either orally or in writing, before an administrative body of a governmental agency outside of the City, and identifies himself or herself as an Official, that Official also must state that he or she is not appearing or testifying in any official capacity and is not representing the views or opinions of the City; rather, he or she is representing his or her own views as a private citizen. Additionally, other than personal thank you notes, City letterhead or the City's official logo shall not be used for any purpose without prior Council approval. Unless the written communication is appropriately authorized on behalf of City, the Official shall not use their official title in the communication unless there is a written disclaimer to the effect that "This communication is the personal opinion of official and does not represent the views of the city of Rancho Palos Verdes or its Officials." As violations of the foregoing would be contrary to the City's transparency policies, likewise, Officials should not communicate regarding City business either anonymously or through pseudonyms. This limitation includes, but is not limited to, posts and comments made on social media.

16.6 Non Interference with Administration

(a) *Council-Manager Form of Government.* The City operates under the Council-Manager form of government and as such, the City Manager is responsible for the administrative operation of the City. Councilmembers have a non-supervisory relationship with City staff. Councilmembers shall not involve themselves in administrative functions of the City.

(b) *Limit Contact to Specific Staff.* Questions of staff and/or requests for additional background information shall be directed only to the City Manager, City Attorney, Deputy City Manager, Human Resources Manager, or other Department Heads. Requests for follow-up or directions to staff should be made only through the City Manager or City Attorney, when appropriate. When in doubt about what City staff contact is appropriate, Councilmembers should consult the City Manager for direction.

(c) *Do Not Disrupt Staff From Their Jobs.* Councilmembers should not disrupt staff while they are in meetings, on the phone, or engrossed in performing their job functions, in order to have the City Council Member's individual needs met.

(d) *No Attempt to Influence.* Councilmembers must not attempt to influence staff on the making of appointments, awarding of contracts, selecting of consultants, processing of development applications, or granting of City licenses and permits.

(e) *Correspondence.* Before sending any correspondence, City Councilmembers shall make an effort to check with staff to see if an official City response has already been sent or is in progress.

(f) *Attendance at Meetings.* Councilmembers should not attend meetings with staff unless requested by City staff. Even if the Councilmember does not say anything, their presence can imply support, show partiality, intimidate staff, or hamper City staff's ability to do their job objectively.

(g) *Limit Requests for Staff Support.* Routine clerical or administrative support will be provided to all Councilmembers for City business by those employees assigned to provide such assistance.

(h) *Personnel Matters.* Public Officials should not direct the City Manager as to City personnel matters.

16.7 Decorum and Order – Employees

Members of City staff and any employees of the Council, shall observe the same rules of procedure and decorum applicable to Councilmembers. The City Manager shall ensure that all staff and employees observe such decorum. Any staff members, including the City Manager, desiring to address the Council or members of the public, shall first be recognized by the Presiding Officer. All remarks shall be addressed to the Presiding Officer and not to any one individual Councilmember or member of the public.

16.8 Not Solicit Political Support

Councilmembers shall not solicit any type of political support (financial contributions, display of posters or lawn signs, name on support list, endorsements, etc.) from staff. staff may, as private citizens with constitutional rights, support political candidates, but all such activities must be done entirely away from the workplace.