

Council Ethics Rule ____

Rule. City Council has determined that the internal regulation of the behavior of City Councilmembers through counseling or reprimand should be done according to Council rules the following procedure.

Counseling. Counseling refers to the meeting by the Council Administration Committee with a Councilmember for the purpose of discussing a Councilmember's action or actions that are considered a violation of a law, Council Ethics Rules, or Council Administrative Rules, but considered by the Council to be not sufficiently serious to require reprimand. Matters eligible for Counseling include: A first violation of the Council ethics or administrative rules.

Reprimand. A reprimand is a formal public statement by the Council that a Councilmember's actions are in violation of law or Council Ethics Rules or Council Administrative Rules., but considered by the Council not sufficiently serious to require removal. It is not necessary that counseling precede a reprimand depending on the nature of the violation. A reprimand may be issued based upon the Council's review and consideration of a written allegation of one or more violations. Matters eligible for reprimand include the following: Repeated violations of the Council Ethics or Administrative rules within a term of office. Failure to attend counseling when determined by the Council that counseling was warranted.

Requests for Counseling for a Councilmember

(1) Any Councilmember may raise with the Chairperson, either in writing or orally, a question whether an action of a Councilmember warrants an informal discussion with a Councilmember about the conduct in question. The Chairperson shall within 14 days determine whether to take no action, to have an informal discussion with the Councilmember with one other member of the Administration Committee present, or, because of the nature of the conduct, to request that a written, sworn, and signed statement of the Councilmember raising the issue be required. If no action is taken or an informal discussion takes place, the Chairperson shall report the general details of the complaint and action taken, absent identifying information of the Councilmember who raised the issue and the Councilmember who is the subject of the complaint; this report shall be made at the next meeting of the Administrative Committee.

(2) Any Councilmember may file a written, sworn, and signed statement with the Council Administration Committee requesting counseling of another Councilmember for allegations concerning violations of law, ordinance, Council Ethics Rules or Council Administrative Rules. The sworn statement must be on personal knowledge and state fully the matter to be subject to consideration.

(3) On receipt of a Councilmember's sworn statement seeking counseling of another Councilmember for alleged violation(s), the Chairperson of the Council Administration Committee will:

(a) Review the sworn statement as to proper form, determining whether the allegation(s) fall under the scope of the Council Administration Committee as defined through this Rule, and if proper:

(b) Provide a copy of the sworn statement to the named Councilmember with a request to provide the Chairperson of the Council Administration Committee within fourteen (14) days receipt of the request with a written, sworn response to the allegation(s).

(4) On receipt of the Councilmember's sworn response, the Chairperson shall determine whether to send the request to the Council Administration Committee for an investigation as set forth below, to have informal discussion with the Councilmember with one other member of the Administration Committee present, or to take no action. The Chairperson shall be required to decide upon a course of action not more than 10 days from the date of receipt of the Councilmember's sworn response to the allegation(s).

If the Chairperson decides to take no action, the Chairperson will notify the Council Administration Committee of the allegation and the reasons for that decision as well as the Councilmember involved in the matter.

If the Chairperson decides to have informal counseling, the Chairperson will notify the Council Administration Committee of the allegation and the reasons for that decision as well as the Councilmember involved in the matter.

(5) If the request is sent forward to the Council Administration Committee, the Council Administrative Committee shall set a date for the hearing not more than 28 days from the

date of the Chairperson's notice to the Council Administrative Committee. Notice of the hearing shall be given to the Councilmembers involved by personal service or by email service. Notice shall be given not less than 10 days prior to the hearing date. The accused Councilmember named in the allegation shall attend the hearing and have the right to present a defense. Hearings shall be informal. Any witnesses presented by the Councilmember named in the allegation as part of his or her defense shall be sworn in by the Chairperson of the Council Administrative Committee. The hearing shall be public. A record of the hearing shall be made, which may be by electronic means (tape or other recorder).

(6) After the hearing, the Council Administration Committee shall by written motion make a determination whether the allegations warrant, by a preponderance of the evidence, a determination that the Councilmember should be counseled by the Council Administration Committee. The determination shall be adopted by not less than a majority of the members appointed to and serving on the Council Administration Committee.

(7) If such a motion is approved, the Chairperson of the Council Administrative Committee shall inform City Council of the determination.

(8) If a Councilmember does not appear at a set time for counseling, then the Council Administration Committee shall inform City Council of that fact.

(9) If a Councilmember seeks to appeal this determination by the Council Administrative Committee, the Councilmember shall file a written request for appeal with the City Clerk. The Council shall review the sworn statement and a transcript of the hearing held by the Council Administrative Committee. The Council by written motion shall make a determination whether, based on a preponderance of the evidence, the Councilmember should be counseled by the Council Administration Committee. If the determination is that counseling should proceed, and the Councilmember does not appear at a set time for counseling, such an action would warrant Reprimand as set forth below.

(10) If any matter is presented to Chairperson or later review by the Council Administrative Committee which is determined to be outside of the scope of the Council Administrative Committee, it shall refer the matter to the appropriate Council or other governmental body.

Requests for Reprimand of a Councilmember

(1) The Council Administrative Committee shall act as investigative staff for the City Council in any allegation of act(s) by a Councilmember which may be grounds for reprimand of that Councilmember.

(2) Any Councilmember may file a written, sworn and signed complaint with the Chair of the Council Administrative Committee alleging a violation of law, ordinance, Council Ethics Rules or Council Administrative Rules on his or her personal knowledge which allegation(s) may be grounds for reprimand of the named Councilmember. The statement must state fully the matter to be subject to consideration.

(3) On receipt of a Councilmember's sworn complaint, the Chairperson of the Council Administrative Committee shall:

a. Review the sworn complaint as to proper form, determining whether the complaint alleged falls under the scope of Council as defined by statute, Charter, and through this Ordinance, as is proper,

b. Inform Council and the named Councilmember of receipt of the Complaint and

i. Request the City Attorney or other Administrative personnel to assist in the investigation of the complaint and report all findings back to the Chair of the Council Administrative Committee for further review by the Council Administrative Committee; or

ii. Schedule the complaint for further review and consideration by the Council Administrative Committee

(4) On completion of investigation and review of the Complaint by the Council Administrative Committee, it shall make a written report and recommendation to City Council that the matter should be:

- a. Dismissed as without merit, or
- b. Scheduled for a hearing before Council, or
- c. Referred for other action to the appropriate governmental or law enforcement agency.

(5) On receipt of the recommendation of the Council Administrative Committee, Council shall, at a regular or special meeting of the public body, act on the recommendations made, which decision shall be adopted by not less than 7 votes.

(6) If a hearing on the Complaint is determined appropriate by Council, the Council shall set a date for the hearing not more than 30 days from the date of the Council meeting at which the determination was made. Notice of the hearing shall be given to the Councilmembers involved by personal service or certified mail return receipt requested. Notice shall be given not less than 14 days prior to the hearing date. The Councilmember named in the allegation shall attend the hearing and have the right to present a defense.

a. The accused Councilmember shall have the right and opportunity to make an opening and closing statement. If any of the alleged conduct occurred outside the Council's proceedings, the Councilmember accused may present witnesses at the hearing and question his or her accusers and any other witnesses that are presented. If the alleged conduct occurred within the Council's proceedings, then witnesses are not necessary. However, in either case, evidence may be presented and responded to.

b. The Councilmember accused may be represented by an attorney and may have the representative speak or question witnesses. The City Attorney or outside counsel will provide legal advice to the City Council during the hearing.

c. The hearing shall be informal. Judicial rules of evidence do not apply at the hearing, which is not a formal adversarial proceeding. Any witnesses presented by the Councilmember named in the allegation as part of his or her defense shall be sworn in by the Hearing officer that Council may from time to time appoint as provided in this section. The hearing shall be public. A record of the hearing shall be made, which may be by electronic means (tape or other recorder).

(7) The Mayor shall preside over the hearing. If the hearing involves the Mayor, the Mayor pro tem shall preside over the hearing unless another Councilmember is appointed by Council. The Chairperson of the Council Administrative Committee (or another person or member of the Administrative Committee designated by the Administrative Committee) shall present evidence to the Council and call witnesses, if necessary.

(8) After the hearing, the Council shall bring the request to reprimand a Councilmember by a Resolution outlining the specific charges. A Resolution to reprimand a Councilmember must be approved by at least seven Councilmembers and they must use a preponderance of the evidence standard.