

# **CITY OF SANTA BARBARA**

## **CITY COUNCIL PROCEDURES**



**November 10, 2015**

## TABLE OF CONTENTS

<b>1. INTRODUCTION .....</b>	<b>1</b>
1.1. Usage .....	1
1.2. Procedures are Directory Only .....	1
<b>2. MEETING PREPARATION .....</b>	<b>1</b>
2.1. Staff Placing Matters on the Agenda.....	1
2.2. Mayor and Council Agenda Requests.....	1
2.3. Public Agenda Requests .....	2
2.4. Consent Calendar .....	2
<b>3. AGENDAS.....</b>	<b>3</b>
3.1. Agenda Posting.....	3
3.2. Adding Matters to an Agenda .....	5
3.3. Written Materials and Public Records.....	5
3.4. Submission of Materials by the Public for Council Consideration....	6
<b>4. MEETING PROCEDURES.....</b>	<b>6</b>
4.1. Presiding Officer .....	6
4.2. Recording Votes.....	7
4.3. Disqualification for Conflict of Interest .....	7
4.4. Changing Votes.....	7
4.5. General Rule of Debate.....	7
4.6. Rosenberg’s Rules of Order.....	8
4.7. Types of Meetings.....	8
4.8. Forms of Council Action .....	13
4.9. Voting.....	14
4.10. Minutes .....	14
4.11. Public Participation .....	14
4.12. Public Comment .....	14
4.13. Decorum and Rules of Conduct .....	15
4.14. Quasi-Judicial Hearings.....	16
4.15. Estimated Agenda Start Times for Large Groups.....	19
4.16. Council Chambers Capacity .....	19
<b>5. POWER OF CENSURE .....</b>	<b>20</b>

# SANTA BARBARA CITY COUNCIL PROCEDURES

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## 1. INTRODUCTION

1.1. **Usage.** These City Council Procedures (“Procedures”) are intended to guide the preparation for and conduct of City Council meetings.

1.2. **Procedures are Directory Only.** These Procedures are directory, not mandatory. No action of the City Council shall be held invalid due to any failure to observe the provisions of these procedures, nor shall any person have a claim or cause of action against the City or any of its officers or employees as a result of any such failure.

## 2. MEETING PREPARATION

2.1. **Staff Placing Matters on the Agenda.** The City Administrator/City Clerk shall be responsible for establishing the City Council agenda, in consultation with the Mayor and Mayor Pro Tem. Each item of business to be considered at a regular City Council meeting must appear on the agenda for that meeting, except as provided in these procedures or under state law. The agenda shall include a brief general description of each item of business to be transacted or discussed. The description should reasonably inform the public as to the nature of the item and any potential action. For example, a land use item should include the street address of the property involved and a description of the approvals being sought, as well as the proposed form of environmental review. The draft Council Agenda Report and associated documents pertaining to an item on the agenda of the City Council and which is to be distributed with the agenda shall be delivered to the City Clerk no later than 12:00 p.m. on the Tuesday two weeks preceding the regular City Council meeting. Draft reports shall not be publicly disclosable until distributed to a majority of the City Council.

2.2. **Mayor and Council Agenda Requests.** Any two Councilmembers may direct that an item be placed on a City Council agenda by submitting a written request to the City Administrator/City Clerk. The written request must, at a minimum, contain all of the following:

2.2.1. A substantive outline or summary of the information that will be presented to the City Council;

2.2.2. A concise statement of the specific action the City Council will be asked to take on the item; and

2.2.3. A statement of the reasons why the requesting Councilmembers believe it is appropriate and within the jurisdiction of the City Council to consider this subject matter and to take the requested action.

# SANTA BARBARA CITY COUNCIL PROCEDURES

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## 2.3. **Public Agenda Requests.**

2.3.1. A member of the public may request that an item be placed on the City Council's agenda only by providing the City Administrator/City Clerk with a written request for such consideration. The written request must, at a minimum, contain all of the following:

2.3.1.1. A substantive outline or summary of the information that will be presented to the City Council;

2.3.1.2. A concise statement of the specific action the City Council will be asked to take on the item; and

2.3.1.3. A statement of the reasons why the requesting party believes it is appropriate and within the jurisdiction of the City Council to consider this subject matter and to take the requested action.

2.3.2. Upon receipt of such an agenda item request, the City Administrator/City Clerk shall forward a complete copy of the request to all Councilmembers, City Attorney, and to any other City staff the City Administrator/City Clerk deems appropriate. Thereafter, such an agenda item request shall be placed on a City Council agenda only upon a written request from at least two Councilmembers to the City Administrator/City Clerk.

2.3.3. A member of the public who makes an oral request during a City Council meeting that an item be placed on a future agenda shall be advised that, for such a request to be processed further, the request must be made in writing in accordance with the requirements of these procedures.

2.4. **Consent Calendar.** The Consent Calendar shall be comprised of items which, in the City Administrator/City Clerk's judgment, will not require discussion. A Consent Calendar item shall be open for discussion by the City Council upon request of a Councilmember, City staff, or member of the public. Items on the Consent Calendar may be approved by a single motion of the City Council. Items on the Consent Calendar will not be read unless the Deputy City Clerk is so directed by the Mayor; and the approval of a motion of the City Council to accept the Consent Calendar shall be deemed to have been preceded by a reading of each individual item by the Deputy City Clerk.

# SANTA BARBARA CITY COUNCIL PROCEDURES

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## 3. AGENDAS

### 3.1. Agenda Posting.

3.1.1. Physical Posting Locations. The agenda for each regular City Council and Standing Committee meeting shall be available and posted at the City Clerk's Office, City Hall Public Notice Board, and City's website on the Thursday preceding the meeting. The City Clerk's Office shall report to the City Council the date and place of posting the agenda for that meeting, and the report shall be reflected in the agenda and minutes of the meeting. The Council Agenda Packet also will be available at the Central Library on the Thursday preceding the meeting. Agenda revisions may be posted as late as 72 hours before the meeting.

3.1.2. Internet Agenda Posting. All agendas for City Council meetings and Standing Committee meetings shall be posted to the City's website no later than 72 hours before the meeting. In the event that the website goes down or otherwise is inaccessible for all or part of the 72 hours preceding the meeting due to technical difficulties or other factors not within the City's control, the meeting may proceed.

3.1.3. Significant Issues Before Council. The City Administrator/City Clerk shall develop and maintain an advance listing of significant issues that are likely to come before the Council.

3.1.4. Agenda Packet Distribution. The Council agenda packet consisting of the agenda and Council Agenda Reports will be distributed to each Councilmember and those City officers and employees designated by the City Administrator/City Clerk generally by 3:00 p.m. on Thursday preceding the regular City Council meeting. By that hour, copies of the agenda and Council Agenda Reports shall be available to the press and public in the City Clerk's Office and on the City's website. Any person may have a copy of an agenda mailed by the City Clerk's Office by providing a self-addressed, postage pre-paid envelope of sufficient size to accommodate the agenda. The City Administrator is authorized to direct early distribution of Council Agenda Reports that are large or of considerable public interest in order to achieve wider public distribution and more time for study by the City Council.

3.1.5. Order of Business. City Council business at a regular meeting shall be conducted in the following order except as otherwise directed by the City Council or the City Administrator/City Clerk, who is authorized to exercise flexibility in establishing the order of agenda items to be considered at each City Council meeting:

# SANTA BARBARA CITY COUNCIL PROCEDURES

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## AFTERNOON SESSION – 2:00 P.M.

12:30 p.m. Finance Committee Meeting

12:30 p.m. Ordinance Committee Meeting

2:00 p.m. Regular Successor Agency Meeting

2:00 p.m. Regular City Council Meeting:

- Pledge of Allegiance
- Roll Call
- Ceremonial Items
- Changes to the Agenda
- Public Comment
- Consent Calendar
- Report from the Finance Committee
- Report from the Ordinance Committee
- Successor Agency Reports
- City Council Administrative and Attorney Reports
- Mayor and Council Reports
- Requests from the Public
- Board and Commission Reports
- Public Hearings
- Council and Staff Communications
- Councilmember Committee Assignment Reports
- Public Comment (If Necessary)
- Closed Sessions
- Work Sessions

## EVENING SESSION – 6:00 P.M.

- Roll Call
- Public Comment
- Public Hearings
- Mayor and Council Reports
- Requests from the Public
- City Council Administrative and Attorney Reports
- Board and Commission Reports
- Work Sessions
- Public Comment (If Necessary)
- Adjournment

# SANTA BARBARA CITY COUNCIL PROCEDURES

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3.2. **Adding Matters to an Agenda.** Except as provided in this paragraph or as otherwise provided by law, no action shall be taken at a regular City Council meeting on any item which does not appear on the posted agenda. An item may be added to the agenda after the agenda has been published and posted upon a determination by a two-thirds vote of the City Council (or a unanimous vote if less than two-thirds of the City Council is present); the vote shall be on a motion stating and finding that there is a need to take immediate action and the need for action came to the attention of the City after the agenda was published and posted. Any such motion shall be accompanied by distribution of a written statement, to be included in the record, stating the facts upon which it can be determined that the need to take action arose after the agenda was published and posted. If it is infeasible to present such a written statement of reasons, the City Clerk's Office shall include in the minutes of the meeting a statement of the reasons for the City Council's determination. In addition, action may be taken on an item not on the posted agenda under the circumstances stated in Government Code Sections 54954.2(b)(1) [emergency] and 54954.2(b)(3) [continued regular meetings].

## 3.3. **Written Materials and Public Records.**

3.3.1. Agendas of public meetings and any other writings, when distributed to all, or a majority of all, of the members of the City Council by any person in connection with a matter subject to discussion or consideration at an open meeting of the City Council are disclosable public records under the California Public Records Act.

3.3.2. If a writing that is a public record as provided above, and that relates to an agenda item for an open session of a regular meeting of the City Council, is distributed less than 72 hours prior to that meeting, the writing shall be made available for public inspection at the time the writing is distributed to all, or a majority of all, of the members of the Council. Any writing described above shall be available for public inspection in the City Clerk's Office. The City shall list the address of this office or location on the agendas for all meetings of the City Council. The City Clerk may also post the writing on the City's website in a position and manner that makes it clear that the writing relates to an agenda item for an upcoming meeting.

3.3.3. The Mayor and each member of the City Council shall use their best efforts to forward to the City Administrator/City Clerk and City Clerk Services Manager any email received at an official City email address in connection with a matter subject to discussion or consideration at an open meeting when it is apparent from the address or cc lines that the email has been distributed to a majority of the City Council. Any writing described above shall be available for public inspection in the City Clerk's Office.

# SANTA BARBARA CITY COUNCIL PROCEDURES

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## 3.4. **Submission of Materials by the Public for Council Consideration.**

3.4.1. In order to assure adequate time for consideration of voluminous and complex material, members of the public who wish to submit written or other materials for consideration by the City Council in connection with an agenda item should provide 11 copies of the material to the City Clerk's Office no later than Tuesday at 5:00 p.m. the week before the agenda item is to be heard by the City Council. The City Clerk shall distribute this material with the week's agenda packet on Thursday.

3.4.2. The City Council shall be under no legal obligation to review any written or other materials that are submitted the day of the Council meeting. The City Council may, but need not, review and consider late-submitted materials if it chooses to do so.

## 4. **MEETING PROCEDURES**

### 4.1. **Presiding Officer.**

4.1.1. Mayor. The Mayor shall be the presiding officer at all meetings of the City Council and shall be included as a member of the City Council for all purposes unless otherwise expressly provided. He or she shall be counted in determining a quorum and shall be entitled to vote on all matters, but shall possess no veto power. The Mayor may make and second motions and shall have a voice and vote in all its proceedings. He or she shall be the official head of the City for all ceremonial purposes. The Mayor shall preserve strict order and decorum at all meetings of the Council, announce the Council's decisions on all subjects, decide all questions of order in accordance with these procedural rules, and announce the Council's vote on all actions or direct the City Administrator/City Clerk to do so. If there is an appeal to a decision of the presiding officer, the Council as a whole shall decide the question by majority vote. Any Councilmember, with the exception of the presiding officer, may move to appeal a decision of the presiding officer. If the appeal motion is seconded by another Councilmember, the Council shall vote on the appeal. If the appeal motion is not seconded, the presiding officer's decision shall stand. The presiding officer's name shall be called last on any question in voting. The Mayor shall have the primary but not the exclusive responsibility for interpreting the policies, programs and needs of the City government to the people, and as occasion requires, he or she may inform the people of any change in policy or program. The Mayor shall perform such other duties consistent with his office as may be prescribed by the Charter or as may be imposed by the City Council.

# SANTA BARBARA CITY COUNCIL PROCEDURES

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4.1.2. **Mayor Pro Tempore.** The Mayor Pro Tempore shall perform the duties of the Mayor during the absence or disability of the Mayor.

4.1.3. **Succession to Mayor and Mayor Pro Tempore.** During the absence or disability of the Mayor and the Mayor Pro Tempore, the duties of the Mayor shall be performed by the Councilmember who serves as Chair of the Ordinance Committee. During the absence or disability of the Mayor, Mayor Pro Tempore, and Chair of the Ordinance Committee, the duties of the Mayor shall be performed by the Councilmember serving as Chair of the Finance Committee.

4.2. **Recording Votes.** The vote of each Councilmember shall be recorded for each item of business on the agenda. The City Council shall publicly report any action taken and the vote or abstention on that action of each Councilmember present for the action.

4.3. **Disqualification for Conflict of Interest.** Pursuant to the regulations of the Fair Political Practices Commission, the Mayor, each Councilmember and any staff with a disqualifying conflict of interest shall, following the announcement of the agenda item to be discussed or voted upon but before either the discussion or vote commences, do all of the following: (1) The public official shall publicly identify: (A) Each type of economic interest held by the public official which is involved in the decision and gives rise to the conflict of interest (i.e. investment, business position, interest in real property, personal financial effect, or the receipt or promise of income or gifts), and (B) The following details identifying the economic interest(s): (i) if an investment, the name of the business entity in which each investment is held; (ii) if a business position, a general description of the business activity in which the business entity is engaged as well as the name of the business entity; (iii) if real property, the address or another indication of the location of the property, unless the property is the public official's principal or personal residence, in which case, identification that the property is a residence; (iv) if income or gifts, then identification of the source; and (v) if personal financial effect, then identification of the expense, liability, asset or income affected. (2) Form of Identification: If the governmental decision is to be made during an open session of a public meeting, the public identification shall be made orally and shall be made part of the official public record.

4.4. **Changing Votes.** The Mayor or any Councilmember may change their vote only by announcing their request immediately after the vote in question and before the next agenda matter is announced for discussion.

4.5. **General Rule of Debate.** Each motion is to be clearly framed and stated. Each amendment to a motion shall be by separate motion. The following procedure shall be followed (except when the City Council is considering an appeal from the decision of a City board or commission):

# SANTA BARBARA CITY COUNCIL PROCEDURES

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4.5.1. The item shall be presented by its proponent (Councilmember, staff, Commission member, public, etc.).

4.5.2. City Council questions to proponent.

4.5.3. City staff report and City Council questions to City staff.

4.5.4. Public input from persons who wish to speak.

4.5.5. City Council debate.

4.5.6. Decision.

4.6. **Rosenberg's Rules of Order.** The procedures of the City Council shall be governed by Rosenberg's Rules of Order, *Simple Rules of Parliamentary Procedure for the 21st Century Rosenberg's Rules*, as revised. The City Attorney shall serve as Parliamentarian.

4.6.1. Mayor and City Council Authority over Procedural Rules. The Mayor shall establish any procedural rule not specified in these procedures, subject to appeal by vote of a majority of those City Councilmembers present and voting.

## 4.7. **Types of Meetings.**

4.7.1. Regular Meetings. Regular meetings of the City Council shall be held in the Council Chambers in City Hall on each Tuesday of each week at 2:00 p.m., except when cancelled by the City Council.

4.7.2. Special Meetings. A special meeting may be called at any time by the Mayor, or by a majority of the members of the City Council, by delivering written notice to each member of the City Council and to each local newspaper of general circulation and radio or television station requesting notice in writing and posting a notice on the City's website. The notice shall be delivered personally or by any other means and shall be received at least 24 hours before the time of the meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted or discussed. No other business shall be considered at these meetings by the legislative body. The written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the City Administrator/City Clerk a written waiver of notice. The written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. The call and notice shall be posted at least 24 hours prior to the special meeting in a location that is freely accessible to members of the public. Notwithstanding any other law, the City

# SANTA BARBARA CITY COUNCIL PROCEDURES

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Council shall not call a special meeting regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits, of a local agency executive, as defined in Government Code Section 3511.1(d).

4.7.3. Adjourned Meetings. The City Council may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular or adjourned regular meeting the City Administrator/City Clerk may declare the meeting adjourned to a stated time and place and he or she shall cause a written notice of the adjournment to be given in the same manner as provided for special meetings, unless such notice is waived as provided for special meetings. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special or adjourned special meeting was held within 24 hours after the time of the adjournment. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by ordinance, resolution, bylaw, or other rule.

4.7.4. Site Visits. The City Council may conduct adjourned or special meeting to conduct site visits on agenda items.

4.7.4.1. The purpose of a site visit is to permit the City Council to view and inspect the physical aspects of real property and development projects that may be the subject of an agenda item.

4.7.4.2. The Mayor or City staff will state at the beginning of the site visit that the site visit is not an opportunity for anyone to make a statement regarding the agenda item. The only presentation will be an explanation of the agenda item by City staff. The City Council may ask questions of staff. Staff may refer specific questions about the physical aspects of the project to project applicants or appellants. All other public comment, argument or references to policy must be reserved for the noticed hearing on the agenda item.

4.7.4.3. Written materials shall not be distributed during the site visit.

4.7.5. Closed Sessions. The following policy and procedure shall govern the holding of closed sessions by the City Council:

4.7.5.1. Each closed session of the City Council shall be held in accordance with provisions of applicable law and these procedures.

# SANTA BARBARA CITY COUNCIL PROCEDURES

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4.7.5.2. The subject to be discussed at each closed session shall be disclosed to Councilmembers in accordance with the provisions of the Ralph M. Brown Act.

4.7.5.3. The closed session shall not be held if the Mayor determines that the closed session is inappropriate, unless that determination is overruled by a majority vote of the City Council.

4.7.5.4. The Mayor shall preside at meetings of the City Council in closed session and shall terminate a closed session if the discussion departs from the announced subject.

4.7.5.5. A Councilmember may call for a vote to terminate a closed session at any time during the meeting.

4.7.5.6. Statements made and documents distributed or discussed in closed session are privileged from disclosure. No disclosure of any statement made in closed session or document protected from disclosure will be made by any Councilmember or by City staff, except as disclosure is authorized or required by applicable law.

4.7.5.7. If it is alleged that a Councilmember or City staff has violated these procedures:

4.7.5.7.1. The Mayor, a Councilmember, or the City Administrator/City Clerk may request a formal hearing be set at which the City Council shall hear the allegations, take sworn testimony, and review such information and evidence as may be presented.

4.7.5.7.2. The hearing shall be conducted by the Mayor, or, in the Mayor's absence, by the Mayor Pro Tempore; except that if the Mayor or the Mayor Pro Tempore shall be the individual charged, he or she shall not conduct the hearing. If both are charged, the duties of the Mayor shall be performed by the Councilmember who serves as Chair of the Ordinance Committee; and if the Chair of the Ordinance Committee is unable to conduct the hearing, the duties of the Mayor shall be performed by the Councilmember who serves as Chair of the Finance Committee. The City Attorney shall serve as the hearing officer and shall advise City Council on all procedural matters and may direct questions to any witness.

4.7.5.7.3. At the conclusion of the hearing, the City Council, by majority vote, shall make a finding as to whether or not any individual has violated the rules against disclosure of closed session information.

# SANTA BARBARA CITY COUNCIL PROCEDURES

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4.7.5.7.4. If the City Council finds that a violation has occurred, the City Council shall direct the City Attorney to prepare the appropriate document for transmittal to the District Attorney or Grand Jury of Santa Barbara County requesting the bringing of an accusation for willful misconduct in office under Section 3060 of the Government Code of the State of California or as otherwise provided by law. In addition, the City Council may direct the City Attorney to undertake an appropriate civil action against the person accused, including, but not limited to, an action for breach of fiduciary duty.

4.7.6. Emergency Meetings. The City Council may conduct emergency meetings when authorized by The Ralph M. Brown Act under Government Code Section 54956.5. An emergency shall be defined as a work stoppage, crippling activity, or other activity that severely impairs public health, safety, or both, as determined by a majority of the members of the City Council.

4.7.7. Work Sessions. A work session is ordinarily for the purpose of i) briefing Councilmembers on a subject; and ii) an informal discussion between City Council, City staff, City boards/commissions, or other agency representative(s). The City Council shall make no decisions at a work session, other than to give direction to staff for follow-up work. If there is no evening session, a work session may be set for an estimated time in the morning, such as 11:00 a.m. All Councilmembers will be polled for availability before a morning session is scheduled.

4.7.8. Teleconferenced Meetings. The City Council may conduct teleconferenced meetings pursuant to the Ralph M. Brown Act under Government Code Section 54953(b). If the City Council elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the City Council shall participate from locations within the City. The agenda shall provide an opportunity for members of the public to address the legislative body directly at each teleconference location.

4.7.9. Budget Hearings. Pursuant to City Charter Section 1203, the City Council shall hold a public hearing on the proposed budget, at which interested persons desiring to be heard shall be given such opportunity.

4.7.10. Public Hearings Required by Law. A public hearing on a specific agenda item shall be set for a specified time, and each written or published notice regarding that hearing shall announce its date and time. A person who

# SANTA BARBARA CITY COUNCIL PROCEDURES

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wishes to address the City Council at a public hearing should first complete a "Request to Speak" form and deliver it to the City Administrator/City Clerk prior to the time that the item on the agenda is read by the Deputy City Clerk. The Mayor may allot the available time to those persons who have filed a Request to Speak, and the determination of the Mayor may be overruled by a majority vote of the City Council.

## 4.7.11. Appeals.

4.7.11.1. Presentations, comments and deliberations by the parties and City Council shall be limited as follows:

4.7.11.1.1. Presentation by City staff shall not exceed 20 minutes in length.

4.7.11.1.2. Presentation by appellant including petitioners and applicants who are appellants shall not exceed 20 minutes in length, including any time reserved for rebuttal or summation.

4.7.11.1.3. Presentation by an applicant who is not an appellant shall not exceed 20 minutes in length, including any time reserved for rebuttal or summation.

4.7.11.1.4. Presentation by City staff in response to issues raised by City Council, appellant and applicant shall not exceed 10 minutes in length.

4.7.11.1.5. Comments from any other persons shall not exceed 2 minutes in length.

4.7.11.1.6. The order and time limits may be modified by action of the Mayor or majority vote of the City Council.

4.7.11.2. The total amount of time allocated for a presentation shall include time used to respond to or to comment upon issues or facts raised by a subsequent speaker ("rebuttal"). An applicant, an appellant, or City staff may request leave of the Mayor to reserve all or a portion of their time for rebuttal. The total amount of time allocated for a presentation shall not include responses to questions posed by City Council during City Council deliberations.

4.7.11.3. These procedures set the maximum time allocated to each person or persons. Whenever feasible, presentations, comments and deliberations shall be shorter than the allocated time.

# SANTA BARBARA CITY COUNCIL PROCEDURES

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4.7.11.4. Any person or persons whose presentation exceeds these time limits shall be ruled out of order and shall lose the floor, unless the time limit is extended by a majority vote of the City Council.

## 4.8. Forms of Council Action.

4.8.1. Ordinances and Resolutions. With the sole exception of emergency ordinances which take effect upon adoption, no ordinance shall be adopted by the City Council on the day of its introduction, nor within five (5) days thereafter nor at any time other than at a regular or adjourned regular meeting. At the time of its introduction an ordinance shall become a part of the proceedings of such meeting in the custody of the City Clerk. At the time of introduction or adoption of an ordinance or resolution it shall be read in full, unless after the reading of the title thereof, the further reading thereof is waived by unanimous consent of the Councilmen present, except that emergency ordinances shall be read in full. In the event that any ordinance is altered after its introduction, the same shall not finally be adopted except at a regular or adjourned regular meeting held not less than five days after the date upon which such ordinance was so altered. The correction of typographical or clerical errors shall not constitute the making of an alteration within the meaning of the foregoing sentence. No order for the payment of money shall be adopted or made at any other than a regular or adjourned regular meeting. Unless a higher vote is required by other provisions of this Charter, the affirmative votes of at least four (4) members of the City Council shall be required for the enactment of any ordinance or resolution, or for the making or approving of any order for payment of money. All ordinances and resolutions shall be signed by the Mayor and attested by the City Clerk. Any ordinance declared by the City Council to be necessary as an emergency measure for the immediate preservation of the public peace, health or safety, and containing a statement of the reasons for its urgency, may be introduced and adopted at one and the same meeting if passed by at least five (5) affirmative votes.

4.8.2. Proclamations and Letters of Recognition. Guidelines to be used for Proclamations and Letters of Recognition are the following: The request must pertain to a Santa Barbara event. The request must be submitted in writing at least three weeks in advance of the Council meeting. Only one proclamation or letter of recognition can be presented per Council meeting, with the exception of the first Tuesday of the month due to employees receiving service awards. The person making the request must be present at the Council meeting to receive the proclamation or letter of recognition. The Mayor will determine if the proposed request meets the intent of this policy and retains the right to decide if it will be issued. The Mayor retains the right to modify, edit, or otherwise amend the proposed proclamation or letter of recognition.

# SANTA BARBARA CITY COUNCIL PROCEDURES

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4.8.3. Minute Orders. The Council may by minute order direct staff or take any other action authorized by law.

## 4.9. **Voting.**

4.9.1. Quorum. A majority of the Council, including the Mayor, shall constitute a quorum for the purposes of transacting City business.

4.9.2. Tie Votes. A tie vote results in rejection of the motion or action in question.

### 4.9.3. Votes Required on Specific Matters

4.9.3.1. General Plan and Zoning Amendments. No amendments to the City's General Plan and Zoning Ordinance shall be effective unless approved by five (5) affirmative votes of the City Council.

4.9.3.2. Franchises. Franchise shall be awarded by ordinance requiring the affirmative votes of at least four (4) members of the City Council. No franchise shall be amended except upon five (5) affirmative votes of the City Council.

4.9.3.3. Budget. The budget and any budget amendment or supplement shall require the affirmative votes of at least a majority of the total members of the Council.

4.10. **Minutes.** Upon the adoption of any order for the payment of money, or any ordinance, resolution, or upon the demand of any member, the City Administrator/City Clerk shall call the roll and shall cause the ayes and nays taken on such questions to be entered in the minutes of the meeting.

4.11. **Public Participation.** Any person wishing to address the City Council should first complete and deliver to the City Administrator/City Clerk a "Request to Speak" form. While the person's name and address is requested on the form, it need not be provided in order for a person to speak. A speaker shall not be heard during the "Public Comment" portion of the meeting on a matter scheduled before the City Council that same day.

## 4.12. **Public Comment.**

4.12.1. At the beginning of the 2:00 p.m. session of each regular City Council meeting, the City Council shall allow any member of the public to address them on any matter of interest that is within the subject matter jurisdiction of the City. Should City Council business continue into the evening session at 6:00 p.m., the City Council shall allow any member of the public who did not address them

# SANTA BARBARA CITY COUNCIL PROCEDURES

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during the 2:00 p.m. session to do so. The City Council, upon majority vote, may decline to hear a speaker on the grounds that the subject matter is not within the jurisdiction of the City.

4.12.2. Time Limits. The total amount of time for public comment shall be 30 minutes, and no individual speaker may speak for more than 2 minutes. Speakers who have submitted a "Request to Speak" form prior to the time that the item on the agenda is initially read by the Deputy City Clerk, but who cannot be heard during the initial public comment session due to the total amount of time exceeding 30 minutes, will be heard at the end of the meeting.

4.12.3. Pooling Time. Persons who speak during the public comment portion of the agenda or during public participation on an individual agenda item may pool their time with others when to do so will allow a group of speakers to consolidate and shorten their remarks. Persons who wish to pool their time shall so indicate on their Request to Speak. Each person who is donating time shall be present in the Council chambers to deliver the Request to Speak form and when the pooled-time speaker is heard. Time will be pooled up to a maximum of 10 minutes for any single speaker, regardless how many persons donate their time. A person may not donate only a portion of their time.

4.12.4. Council and Staff Responses. No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may briefly respond to statements made or questions posed by persons exercising their public comment testimony rights. In addition, on their own initiative or in response to questions posed by the public, a member of a legislative body or its staff may ask a question for clarification, make a brief announcement, or make a brief report on his or her own activities. Furthermore, a member of a legislative body, or the body itself, subject to rules or procedures of the legislative body, may provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.

## 4.13. Decorum and Rules of Conduct.

4.13.1. Duty to Preserve Decorum. While the Council is in session, all persons shall preserve order and decorum. Any person disrupting the Council meeting shall be barred by the Mayor from further attendance at said meeting. Any member of the public who fails to comply with the rules of decorum and conduct after being warned by the Mayor, thereby requiring the Mayor to interrupt the meeting once again to restore order, shall be considered to be disrupting the Council meeting.

# SANTA BARBARA CITY COUNCIL PROCEDURES

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4.13.2. Disruption Prohibited. No person shall disrupt the orderly conduct of the Council meeting. Prohibited disruptive behavior includes but is not limited to shouting, making disruptive noises, such as boos or hisses, creating or participating in a physical disturbance, speaking out of turn or in violation of applicable rules, preventing or attempting to prevent others who have the floor from speaking, preventing others from observing the meeting, entering into or remaining in an area of the meeting room that is not open to the public, or approaching the Council dais without consent. Individuals shall not be allowed to bring furniture into Council Chambers, or other items that might obstruct free passage within or ingress to or egress from Council Chambers, or to place any such obstructions in Council Chambers aisles or passage ways.

4.13.3. Electronic Devices. All electronic devices, such as phones, tablets or computers, shall be used in a silent mode so as not to disrupt the meeting with beeping, rings or other noises.

4.13.4. Signs. No sign shall be brought into the Council Chambers or displayed unless it can be held by one person without blocking the view of the dais by other persons seated in the Council Chambers. Signs shall not be affixed to poles or sticks. No sign or other material shall be affixed to the walls of the Council Chambers.

4.13.5. Sergeant-at-Arms. The Chief of Police (or representative) shall act as ex-officio sergeant-at-arms of the Council. The Police Chief shall carry out all orders and instructions of the presiding officer for the purpose of maintaining order and decorum inside and outside of the Council Chambers. Persons who disrupt a Council meeting while in session are subject to arrest and prosecution. Upon instructions of the Mayor it shall be the duty of the sergeant-at-arms or any police officer present to eject from the Council Chambers any person in the audience who disrupts the proceedings of the Council meeting.

## 4.14. **Quasi-Judicial Hearings.**

4.14.1. Overview. It is the policy of the Council to avoid and discourage substantive oral communications or individualized written communications about quasi-judicial matters, except during a noticed public hearing. Written communications distributed to a majority of the Council shall be disclosed to the City Administrator/City Clerk and made public as required by the Ralph M. Brown Act. The following procedural guidelines are intended to implement this policy, but shall not be construed to create any remedy or right of action.

4.14.2. Generally. These procedures are intended to assure that the due process rights of all persons are protected during quasi-judicial City hearings.

# SANTA BARBARA CITY COUNCIL PROCEDURES

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Quasi-judicial hearings require a higher level of procedural due process because of the potential impact on life, liberty or property. In the land use context, quasi-judicial hearings typically involve a single parcel of land and apply facts and evidence in the context of existing law.

4.14.3. Applicability. Quasi-judicial hearing procedures will apply to the following City Council hearing matters:

4.14.3.1. Appeals from quasi-judicial matters, including but not limited to:

4.14.3.1.1. Actions of the Single Family Design Board

4.14.3.1.2. Actions of the Historic Landmarks Commission

4.14.3.1.3. Actions of the Architectural Board of Review

4.14.3.1.4. Actions of the Planning Commission

4.14.3.1.5. Permits issued by the Police or other departments that implicate liberty, property or life interests

4.14.3.1.6. Revocation of any permit in which the permittee has a vested property interest

4.14.4. Identification of Quasi-Judicial Matters on the Agenda. The City Administrator/City Clerk, in conjunction with the City Attorney, will identify agenda items involving quasi-judicial decisions on the Council agenda. This identification is intended to inform the Council, interested parties, and the public that this policy will apply to the item, but failure to identify an item shall not be cause for a continuance.

4.14.5. Policy to Avoid Ex Parte Contacts. Ex parte contacts are substantive oral or individual written communications concerning quasi-judicial matters that occur outside of noticed public hearings. City Councilmembers should avoid and discourage ex parte contacts if at all possible.

4.14.6. Disclosure of Ex Parte Contacts. If an ex parte contact does occur (which it might because the public has a hard time understanding that on quasi-judicial matters the Council's decision making is confined to the hearing), the Councilmember must disclose the contact and the substance of the information communicated on the record at the start of the public hearing. This disclosure allows people who may have a different point of view or contrary evidence to make their points during the hearing in response to the information you may have obtained through the ex parte contact. The disclosure might go something like

# SANTA BARBARA CITY COUNCIL PROCEDURES

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this: “I was approached by the appellant last week and they told me that neighborhood traffic is much greater than the City’s baseline assumptions.”

4.14.7. Ex Parte Contacts After the Hearing. Ex parte contacts after a public hearing is closed and before a final decision is rendered are prohibited because there is no opportunity for rebuttal.

4.14.8. Hearings De Novo. Appeals to the Council shall be conducted *de novo*, meaning that new evidence and arguments may be presented and considered. All matters in the record before any other City board, commission or official shall be part of the record before the Council.

4.14.9. Burden of Proof. The applicant and appellant shall bear the burden of proof on all aspects of the action or relief they seek. The person with the burden of proof must offer evidence to the Council to support his or her position.

4.14.10. Rules of Evidence. Council hearings need not be conducted according to formal rules of evidence. Any relevant evidence may be considered if it is the sort of evidence upon which responsible persons rely in the conduct of serious affairs. The presiding officer may exclude irrelevant or redundant testimony and may make such other rulings as may be necessary for the orderly conduct of the proceedings while ensuring basic fairness and full consideration of the issues involved. Evidentiary objections shall be deemed waived unless made in a timely fashion before the Council.

4.14.11. Written Findings. On any matter for which state law or City ordinance requires the preparation of written findings, the staff report and other materials submitted on the matter will contain findings proposed for adoption by the Council. Any motion directly or impliedly rejecting the proposed findings must include a statement of alternative or modified findings or a direction that the matter under consideration be continued for a reasonable period of time in order for staff to prepare a new set of proposed findings consistent with the evidence which has been presented and the decision which is anticipated.

4.14.12. Councilmembers Who Are Absent During Part of a Hearing. A Councilmember who is absent from any portion of a hearing conducted by the Council may vote on the matter provided that he or she has watched or listened to a video or radio broadcast, or video or audio recording, of the entire portion of the hearing from which he or she was absent and if she or he has examined all of the exhibits presented during the portion of the hearing from which he or she was absent and states for the record before voting that the Councilmember deems himself or herself to be as familiar with the record and with the evidence presented at the hearing as he or she would have been had he or she personally attended the entire hearing.

# SANTA BARBARA CITY COUNCIL PROCEDURES

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4.14.13. Council Use of Electronic Communication Devices During Meetings. The Council's use of electronic communication devices, such as cell phones, during a quasi-judicial City Council hearing may lead to the public's perception that a Councilmember is not paying attention to the subject matter at hand or that a Councilmember is receiving information relative to the subject matter at hand that other Councilmembers and members of the public are not receiving. Therefore, the Council's use of electronic communication devices (including cell phones), other than for the purpose of accessing agenda materials or conducting individual research, is prohibited during quasi-judicial City Council hearings

4.15. **Estimated Agenda Start Times for Large Groups.** The estimated time system is established to: i) minimize the amount of time that large groups would wait for City Council items; ii) recognize that estimating the duration of City Council items is imprecise and that an estimated time" should not create an unrealistic expectation that the time for taking an item is certain; and iii) avoid creating gaps in the City Council meeting flow. The estimated time system is established with the following guidelines:

4.15.1. An individual or group may request an estimated time for items with high public interest. High public interest means that a large group is planning to attend the meeting.

4.15.2. The intent of an estimated time would be to accommodate groups, not a specific individual scheduling request.

4.15.3. When an estimated time is established, the City Council item would be scheduled for the estimated time or later, e.g., 2:30 p.m. or later.

4.15.4. If multiple items are scheduled on an agenda for the same estimated time, the items would be taken in the order they appear on the agenda; for example, two items scheduled for 2:30 p.m. or later would be taken in the order they appear on the agenda.

4.15.5. Estimated time requests must be submitted to the City Administrator/City Clerk, who makes the final decision on whether to grant an estimated time request.

4.16. **Council Chambers Capacity.** Council chamber attendance is limited to the posted seating capacity. The City Administrator/City Clerk shall appropriately regulate entrance to the council chamber when the council chamber capacity is likely to be exceeded. Members of the public shall not remain standing in the seating area or aisles of the council chamber. Sitting on the floor is not permitted. The sergeant-at-arms shall enforce these procedures.

# SANTA BARBARA CITY COUNCIL PROCEDURES

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## 5. POWER OF CENSURE

The City Council establishes and reserves the power to censure members of the City Council who violate these procedures. The City Council may adopt supplemental procedures to govern censure proceedings upon the advice and counsel of the City Attorney.

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