

## Sections 2.8, 4.7 and 6

*[Includes Council comments and edits from the May 23, 2017 Council meeting]*

### **CITY COUNCIL RULES OF PROCEDURE**

**Adopted - April 23, 2002**  
**Amended - April 27, 2004**  
**Amended - February 8, 2005**  
**Amended – July 10, 2012**  
**Amended – March 10, 2015**  
**Amended – January 26, 2016**  
**Amended – April 25, 2017**

#### **TABLE OF CONTENTS**

1. Authority
2. General Rules
3. Types of Meetings
4. Chairman and Duties
5. Order of Business and Agenda
6. Ordinances, Resolutions, and Motions
7. Creation of Committees, Boards and Commissions
8. Citizen's Rights
9. Suspension and Amendment of These Rules
10. Amendments
11. Rules of Conduct

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2.8 City Attorney: The City Attorney shall attend all regular meetings of the Council unless excused by the Mayor with the consent of the Council and shall attend special meetings and Council workshops upon request. The City Attorney shall also attend meetings of the City Commissions at the request of the City Council or on an as-needed basis. The City Attorney shall act as the Council's parliamentarian.

[Moved from Sec. 6.4]

The City Attorney shall render legal opinions, either written or oral, on questions of law. Individual members of the City Council may consult with the City Attorney regarding legal issues pertaining to City business, and may request written legal advice regarding a potential conflict of interest which may affect that council member's ability to participate in an

upcoming decision.

All City Attorney responses to council member legal inquiries requiring a substantial commitment of City Attorney time must be provided in writing to all members of the City Council, and all staff legal inquiries requiring a substantial commitment of City Attorney time must be authorized by the City Manager.

The City Attorney should do no work on a policy proposal from one or more members of the Council that would require a substantial commitment of City Attorney time when the consideration of such a proposal has not been discussed by the full Council.

The City Attorney has the discretion to decline to provide advice to individual members of the Council when in his or her professional opinion, the request for legal advice requires the approval of the full Council.

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4.7 Rights of Council to Discipline: ~~Any~~ deliberative assembly body has the inherent right to make and ~~enforce its own laws and to~~ enforce its own rules and laws, including rules providing for the discipline of a member of the deliberative body.

The City Council shall have a right to discipline, ~~admonish, and censure and punish~~ a member where a standard majority of the Council finds ~~with support of the City Attorney~~ that actions of a member are ~~arbitrary and conspiring to the detriment of detrimental to~~ the City of Hercules. Such discipline, after the Council duly notices and publicly conducts ~~its investigation a hearing~~, can include: ~~admonishment and in more serious cases, public censure, civil charges, and in grave or extreme cases recommendation to the Hercules citizens at large for the removal of a sitting Council Member.~~ As a rule, such deliberative body including a the City Council has no right to go beyond what is necessary for its self-protection.

Commented [PT1]: Per Council direction 5-23

Commented [PT2]: Per council direction 5-23

Commented [PT3]: Per Council direction 5-23

Commented [PT4]: Per Council direction 5-23

## 6. Ordinances

6.1 Ordinances-Deferred Effective Date: Emergencies and Appropriations: ~~Ordinances introduced/read at a Council meeting shall not be formally acted upon until at least the next official meeting, except that urgency ordinances may be acted on immediately. A standard majority affirmative vote of the Council shall be required for the final passage of an urgency ordinance. Urgency defined in Government Code Section 36937.~~

Pursuant to California Government Code Sec. 36937, ordinances take effect 30 days after their final passage. An ordinance takes effect immediately, if it is an ordinance:

(a) Relating to an election.

- (b) For the immediate preservation of the public peace, health or safety, containing a declaration of the facts constituting the urgency, and is passed by a four-fifths vote of the council.
- (c) Relating to street improvement proceedings.
- (d) Related to taxes for the usual and current expenses of the city.
- (e) Covered by particular provisions of law prescribing the manner of its passage and adoption.

6.2 Reading by Title Only: Upon being introduced, each proposed ordinance shall be read by title only, with further reading waived unless any member of the Council requests a full reading of the ordinance.

6.3 Majority Vote Required: Resolutions, orders for the payment of money, and all ordinances require a recorded majority vote of the total membership of the Council, pursuant to Government Code Section 36936. A motion, or any other proposition may be adopted by a majority voting on the issue except as otherwise specified by City Ordinance or State Statutes. When any vote is called, each Council Member shall respond “yes (aye),” “no”, “abstain”, or “pass”. Any Council Member who responds, “pass” will be given the opportunity at the end of the roll call to change their vote. Any “pass” response not changed shall be recorded as an abstention. A Council Member shall recuse himself or herself from a vote if required to do so by State conflict of interest laws, pursuant to the process provided under state law.

~~6.4 Tie Vote: In the event of a tie in votes on any motion, the motion shall be considered lost unless the chair votes for the affirmative. The chair may also cast a negative vote to make a tie and thus defeat the measure.~~

~~6.5~~ Requests for Preparation of Ordinances or Issuance of Legal Opinions: Any member of the City Council, with the approval of a majority of the Council, may request the City Manager to place the proposed adoption of an ordinance or resolution on the City Council agenda for discussion purposes. The City Attorney shall review proposed ordinances and resolutions for form and ~~legality~~ provide legal advice prior to and during discussion, consideration, and adoption by the City Council.

Commented [P15]: Per Council direction 5-23

[Move to Sec. 2.8]

~~The City Attorney shall render legal opinions, either written or oral, on questions of law. Individual members of the City Council may consult with the City Attorney regarding legal issues pertaining to City business, and may request written legal advice regarding a potential conflict of interest which may affect that council member’s ability to participate in an upcoming decision.~~

~~All City Attorney responses to council member legal inquiries requiring a substantial commitment of City Attorney time must be provided in writing to all members of the City~~

~~Council, and all staff legal inquiries requiring a substantial commitment of City Attorney time must be authorized by the City Manager.~~

~~The City Attorney should do no work on a policy proposal from one or more members of the Council that would require a substantial commitment of City Attorney time when the consideration of such a proposal has not been discussed by the full Council.~~

~~The City Attorney has the discretion to decline to provide advice to individual members of the Council when in his or her professional opinion, the request for legal advice requires the approval of the full Council.~~

All ordinances and resolutions prepared by the City Attorney shall be provided to the City Manager, who shall distribute them to all members of the City Council so that they may be fully informed of the status of City affairs.