

Resolution No. 2024-11-19-1218

STOCKTON CITY COUNCIL

RESOLUTION ADOPTING REVISED CITY COUNCIL POLICY CHAPTER 4.08, RELATING TO CENSURE

Chapter 4.08 of the Council Policy Manual addresses Council Censure; and

In December 2023, the Legislation/Environmental Committee reviewed and discussed revisions to the entire council policy manual. Staff was directed to revise Section 4.06.010(2) regarding the use of electronic devices; and

On August 28, 2024, the Committee was presented with information regarding the Council Censure Policy in Chapter 4.08 and following review and discussion, the Committee directed staff to make the following changes:

- A notification period of 10-days.
- Ad Hoc makeup at the Mayor's discretion.
- Add a reservation of rights clause.
- Revise the Policy section to a Purpose section with a broader statement of intent.
- Add a willful, negligent, intentional requirement and remove good faith exception

On October 23, 2024, these changes were presented to the Council Legislation and Environmental Committee and a recommendation was forwarded to Council; and

Those changes are presented for Council consideration and approval, now, therefore,

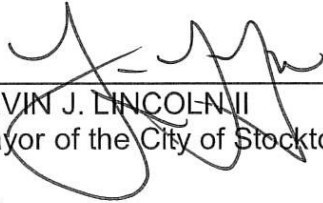
BE IT RESOLVED BY THE COUNCIL OF THE CITY OF STOCKTON, AS
FOLLOWS:

1. The City Council approves the revisions to City Council Policy 4.08, entitled "Council Censure" attached hereto as Exhibit 1 and incorporated by this reference.

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2. The City Manager is hereby authorized to take appropriate and necessary actions to carry out the purpose and intent of this Resolution.

PASSED, APPROVED and ADOPTED: November 19, 2024.



KEVIN J. LINCOLN II
Mayor of the City of Stockton

ATTEST:



KATHERINE ROLAND, CMC, CPMC
City Clerk of the City of Stockton



CHAPTER 4.08 COUNCIL CENSURE

§ 4.08.010. Purpose.

The residents of Stockton are entitled to responsible, fair, honest, and ethical City government. It is the Policy of the Stockton City Council that all its members shall abide by federal and state law, the City Charter, City legislation, and City Council policies. Violation of such laws or policies can subject the City to liability, affect the City's budget, resources, plans and timelines, injure the good name of the City, and undermine the effectiveness of the City Council as a whole. Such conduct is deemed to be subject to City Council Censure.

The purpose of this Policy and Procedure for Censure of City Councilmembers is to establish a process for City Councilmembers to seek a censure determination as to another City Councilmember. For purposes of this Policy, the term "Councilmember" includes each individual Councilmember, the Vice-Mayor, and the Mayor of the City.

Censure is a formal resolution of the City Council officially reprimanding one of its members for negligently, intentionally, or willfully violating a law, regulation, City policy, or the City Code of Ethics, while serving as a City of Stockton Councilmember. A censure shall be considered an expression of disapproval by the City Council but carries no additional penalty or fine imposed by the City Council.

In lieu of or in addition to censure, the City Council shall retain the right to refer any matter or alleged misconduct to an appropriate regulatory or enforcement agency and/or to take any other action otherwise authorized by policy or law.

§ 4.08.020. Procedures.

- 1) Any two City Councilmembers may initiate a censure process by jointly submitting a censure request to the City Clerk. The censure request shall be in writing, specify the name of the Councilmember sought to be censured, and specify the alleged misconduct for which censure is sought.
- 2) Within ten (10) days of receipt of the censure request, the City Clerk shall notify the Councilmember who is the subject of the requested censure, and the City Clerk shall provide that Councilmember with a copy of the written censure request.
- 3) The City Clerk shall thereafter place the censure request on the next regular City Council agenda for initial consideration of the censure request by the City Council at a City Council meeting occurring no later than sixty (60) days after receipt of the censure request. The initial consideration of the censure may be heard at either a regular or special City Council meeting.
- 4) At that meeting, the Councilmembers who did not submit the complaint and the Councilmember who is not the subject of the complaint, may by unanimous vote, direct that the censure hearing not move forward. Absent this unanimous vote, the censure hearing shall move forward.
- 5) If a censure hearing moves forward, the next step is the creation of a Council Ad Hoc committee. The Mayor shall appoint a Council Ad Hoc committee to review the complaint as set forth in subsection 6 below. Councilmembers who made the complaint and the accused

EXHIBIT 1

councilmember shall not serve on the ad hoc committee. If the Mayor filed or is the subject of the complaint, the Vice Mayor shall appoint a Council Ad Hoc Committee to review the complaint. If both the Mayor and Vice Mayor are unable to make the Ad Hoc Appointment, the Councilmember with the longest tenure who is not involved in the filing of the complaint and is not the subject of the complaint, may appoint a Council Ad Hoc Committee to review the complaint.

- 6) The Ad Hoc committee may interview witnesses and review documents relevant to the censure request. The Ad Hoc committee may seek the reasonable assistance of City staff, including the City Clerk, City Manager, and City Attorney, and may contract with consultants and/or investigators to assist the ad hoc committee in its investigation, provided that such contracts are subject to approval of the City Manager and City Attorney, and the amount of the contract shall not exceed the contracting authority of the City Manager without City Council approval.
- 7) The Ad Hoc committee shall endeavor to complete its investigation within ninety (90) days of the establishment of the ad hoc committee, subject to reasonable extensions of time as the specific facts, circumstances, and investigation so warrant.
- 8) At the end of its investigation, the Ad Hoc committee shall determine whether the facts support/do not support a censure hearing and prepare a report and recommendation to the full City Council. The Ad Hoc committee report shall state the specific law or policy alleged to have been violated, summarize the complaint, evidence, and the results of its investigation.
- 9) If the ad hoc committee determines that the allegations are supported and a censure hearing is warranted, the committee shall direct the City Clerk to forward its report and recommendation to the entire City Council and set the matter for a public censure hearing before the City Council at the next available meeting date considering the due process requirements in Sections 11 and 12.
- 10) If the ad hoc committee concludes that the allegations are not supported and a censure hearing is not warranted, the ad hoc committee shall direct the City Clerk to forward the committee's report and recommendation to the entire City Council and no further action on the complaint will be taken.
- 11) If a public hearing is set before the City Council, the person against whom censure is sought is entitled to due process of law, which requires notice and an opportunity to be heard, including the opportunity to refute evidence against him/her. The hearing shall take place before the Council makes a final determination.
- 12) The hearing shall be far enough in advance to give the member subject to censure adequate time to review the allegations and evidence against him or her and prepare a defense, but no longer than 30 days from the date of the ad hoc committee's recommendation.
- 13) A City Council decision to censure requires the adoption of a Resolution with appropriate findings. Findings must be based on substantial evidence that the member has engaged in conduct that violates a law, regulation, City policy, or the City Code of Ethics.
- 14) The issuance of a resolution of censure requires a majority vote of the City Council. The accused Councilmember shall not participate in the City Council's deliberations after the public hearing is closed or in any vote by the City Council on the proposed censure.

§ 4.08.030. Responsibilities.

City Clerk: Submittal, notification, agenda scheduling, and other assistance as directed under the policy.

Mayor: Appoint a Council Ad Hoc committee to review complaint.

City Councilmembers: Determine whether censure process should proceed consistent with the policy. If the censure process moves forward, any selected councilmember must serve on the Ad Hoc committee to review the complaint and make a recommendation.

§ 4.08.040. Relevant authority.

Approved by Resolution.

§ 4.08.050. Related administrative directive, city policy, city procedure.

None applicable.

§ 4.08.060. Related forms, documents, or links.

None applicable.

§ 4.08.070. Frequently asked questions.

None applicable.

§ 4.08.080. Update history.

12/17/13 - Adopted by Resolution No. 2013-12-17-1213

1/26/16 - Amended by Resolution No. 2016-01-26-1203