

CHAPTER 4.08
COUNCIL CENSURE

§ 4.08.010. Policy Purpose.

The residents of the 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 appropriate regulatory or enforcement agency and/or to take any other action otherwise authorized by policy or law.

- ~~1) In order to deter violations of law and serious violations of adopted City policies, the City Council may take formal action against its members for such misconduct in the form of censure.~~
- ~~2) Censure is a formal Resolution of City Counsel reprimanding one of its own members for specified conduct, generally a violation of law or of City policy where the violation of policy is considered to be a serious offense.~~
- ~~3) Censure should not follow an occasional error in judgment, which occurs in good faith and is unintentional.~~
- ~~4) Censure carries no fine or suspension of the rights of the member as an elected official but a censure is a punitive action that serves as a punishment for wrongdoing.~~

§ 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.

- ~~4)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. Any two members of the City Council may submit, in writing to the City Clerk, a complaint and request for a censure hearing concerning an alleged violation of law or serious violation of City policies by another member. The complaint shall provide specific allegations and any supporting evidence of specific conduct alleged to violate existing law or adopted City policies. The City Clerk shall place this matter on an agenda at a regular 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 ~~censure~~ complaint, may, by unanimous vote, direct that the censure hearing not move forward~~proceed~~. 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. ~~Otherwise,~~ The Mayor shall appoint a Council Ad Hoc committee to review the complaint as set forth in subsection 64 below. Councilmembers who made the complaint and the accused 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. In even numbered years, the ad hoc committee shall be the Mayor and two Councilmembers from Districts 2, 4, or 6. In odd numbered years, the ad hoc committee shall be the Mayor and two Councilmembers from Districts 1, 3, or 5. If the Mayor is either one of the Councilmembers who submitted the complaint or is the subject of the censure complaint, the Vice Mayor shall serve on the committee and make the other appointment as provided above. If both the Mayor and the Vice Mayor have submitted the complaint, the Councilmember with the longest tenure (and who is not the subject of the complaint) shall serve on the committee and make the appointment as provided above. If two or more Councilmembers have the same longest tenure, the Councilmembers shall draw straws as to who will serve on the committee and make the other appointment. The make up of the ad hoc committee as described above is the general rule; depending on which Councilmembers have made the complaint and/or which Councilmember is the subject of the complaint, the make up of the ad hoc committee is flexible.~~
- ~~2) A copy of the complaint and request for censure shall be provided to the accused Councilmember as soon as possible following receipt, but in no event less than 72 hours prior~~

~~to the meeting of the ad hoc committee at which the complaint and request for a censure hearing will be considered.~~

- ~~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.~~
- ~~3) ad hoc committee shall review the allegations of the complaint, conduct whatever investigation into the allegations of the complaint is necessary, and 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 on the complaint to the full City Council.~~
- ~~4) The ad hoc committee shall be staffed by the administrative support staff as may be necessary to assist in its investigation and report to the Council.~~
- ~~5)8) Upon completion of its review of the complaint and any investigation, the committee shall determine if, considering all the facts and evidence, there are reasonable grounds to believe or not believe that the alleged violation of law or serious violation of adopted City policy occurred. The Ad Hoc committee report shall make a written report to the Council stating the specific law or policy alleged to have been violated, and summarizing the complaint, evidence, and the results of itsany additional investigation. The ad hoc committee shall also make a recommendation to the Council that the complaint is supported by sufficient evidence of a violation of law or serious violation of adopted City policy to warrant a censure hearing, or, alternatively, that the complaint is not supported by sufficient evidence of a violation of law or serious violation of adopted City policy to warrant a Council censure hearing.~~
- 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.
- ~~6)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. unless a City Council majority directs during Council Communications the matter to be placed on its agenda for further consideration.~~
- ~~7)11) If a public hearing is set before the City Council, prior to any formal action by the City Council to censure a member, there 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.~~

~~8)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.

~~9) — At the hearing, the member shall be given an opportunity to be heard.~~

~~13)~~ A City Council decision to censure requires the adoption of a Resolution ~~with making~~ 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 ~~constitutes a violation of law or a serious violation of an adopted City policy.~~

~~10)14)~~ The issuance of a ~~The~~ resolution of censure requires a majority vote ~~must be affirmed~~ by at least four affirmative votes ~~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. ~~Place allegations of policy violations on agenda for City Council meeting.~~

Mayor: Appoint a Council ~~Aad H~~hoc committee to review complaint.

City Councilmembers: Determine whether censure ~~process~~hearing should proceed consistent with the policy. If the censure process moves forward, any selected councilmember must; serve on the ~~Aad H~~hoc committee to review ~~the eomplaint~~complaint and make a recommendation.

§ 4.08.040. Relevant authority.

The authority for a City Council to censure one of its own members stems from State law. Government Code Section 36813 provides for a legislative body to establish rules for the conduct of its proceedings.

§ 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