

CITY OF BELLFLOWER

RESOLUTION NO. 16-87

A RESOLUTION ESTABLISHING A CODE OF CONDUCT AND RULES FOR CONDUCTING CITY COUNCIL MEETINGS IN ACCORDANCE WITH GOVERNMENT CODE § 36813, AND SUPERSEDING RESOLUTION NO. 15-26

THE CITY COUNCIL RESOLVES AS FOLLOWS:

SECTION 1. *Code of Conduct; Core Principles.* The City Council finds and declares that its members, and all members of appointed boards and commissions (collectively, "Public Officials"), will abide by the following Core Principles:

- A. Public Officials should comply with both the letter and spirit of the laws and policies affecting the operations of government;
- B. Public Officials are expected by the public to be independent, impartial, and fair in their judgment and actions;
- C. Serving in public office is a privilege and should be exercised in trust for the public good, not for personal gain; and
- D. Public deliberations and processes should be conducted openly, unless legally confidential, in an atmosphere of respect and civility.

SECTION 2. *General Policies.* Implementing the Core Principles is one of the guiding objectives in adopting this Resolution. Accordingly, in addition to all requirements of applicable law, the Public Officials must adhere to the following policies:

- A. Conduct of Public Officials

The professional and personal conduct of Public Officials must be above reproach and avoid even the appearance of impropriety. Public Officials will refrain from abusive conduct, personal charges, or verbal attacks upon the character or motives of other Public Officials, City employees, or the public.

- B. Respect for Process

Public Officials will perform their duties in accordance with the processes and rules of order established by the City Council governing the deliberation of public policy issues, meaningful involvement of the public, and implementation of policy decisions.

C. Conduct of Public Meetings

Public Officials will fully prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand. They will refrain from interrupting other speakers, making personal comments not germane to the business of the body, or otherwise interfering with the orderly conduct of meetings.

D. Communication

Members will publicly share substantive information that is relevant to a matter under consideration by the City Council or boards, commissions, and committees, which they may have received from sources outside the public decision-making process.

E. Confidential Information

Members must respect the confidentiality of information concerning City property, personnel, or proceedings of the City. They will neither disclose confidential information without proper legal authorization nor use such information to advance their personal interests.

F. Advocacy

When presenting their individual opinions and positions, Public Officials will expressly state they do not represent their body or the City of Bellflower, nor will they allow the inference that they do. All written correspondence expressing an individual opinion and position must be on personal stationery and not on City stationery.

G. Policy Role of Public Officials

Public Officials must respect and adhere to the council-manager structure of Bellflower city government with respect to the City Manager's relationship with the City Council. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by the public, boards, commissions, and committees and City staff. The City Manager implements that policy.

SECTION 3. *Substance Abuse Policy.*

A. While acting in their official capacities, Public Officials will refrain from imbibing alcohol to the point that it impairs their judgment, physical coordination, speech, or mental process.

- B. At all times, Public Officials will refrain from the use of a controlled substance, narcotic, amphetamine, barbiturate, prescribed or over-the-counter medication in excess of the prescribed dosage, or other non-prescribed hallucinogenic substance.
- C. Public Officials who have substance abuse problems are encouraged to make every effort to overcome such problems and to utilize the services of the Employee Assistance Program (EAP). Using the EAP is confidential.

SECTION 4. *Anti-Harassment Policy.*

- A. Harassment of an applicant or employee by a Public Official on the basis of race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, sexual orientation, gender identity, veteran or military status, sex, or age will not be tolerated.
- B. Harassment on the basis of race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, sexual orientation, gender identity, veteran or military status, sex, or age includes, but is not limited to, the following examples:
 - 1. Verbal Harassment - Epithets, derogatory comments, or slurs on the basis of race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, sexual orientation, gender identity, veteran or military status, sex, or age.
 - 2. Physical Harassment - Assault, impeding or blocking movement, or any physical interference with normal work or movement when directed at an individual on the basis of race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, sexual orientation, gender identity, veteran or military status, sex, or age.
 - 3. Visual Forms of Harassment - Derogatory posters, notices, bulletins, cartoons, or drawings on the basis of race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, sexual orientation, gender identity, veteran or military status, sex, or age.
 - 4. Sexual Favors - Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that is conditioned upon employment benefit, unreasonably interferes with an individual's work performance or creates an offensive work environment.

SECTION 5. *Anti-Nepotism Policy.* The City will not hire relatives of Public Officials. If a Public Official's relative presents a matter to the City, then that Public Official cannot participate in or attempt to influence decision-making regarding that matter. For purposes of this policy a "relative" is defined as a blood, by-adoption, or step parent, spouse or registered domestic partner, sibling, child or in-law, and their children and children-in-law.

SECTION 6. *Expected Conduct.*

- A. Public Officials will request administrative services only through the City Manager or designee.
 - 1. Public Officials cannot direct, order, or make demands on any City employee, other than inquiries that can be answered routinely and without research.
 - 2. Public Officials cannot attempt to reorganize an employee's priorities or influence the manner by which City staff performs their assigned functions or duties.
 - 3. Public Officials cannot retaliate or threaten to retaliate against employees as a result of disagreements over policy recommendations.
 - 4. Public Officials cannot threaten a City employee with disciplinary action.

- B. Public Officials must act collectively in a properly noticed and constituted meeting; Public Officials do not have authority to make decisions or take actions on behalf of the body unless expressly authorized to do so.
 - 1. Public Officials cannot make representations or promises to any third party regarding the future actions of the City or of the body of which they are a member, unless such representation or promise has been duly authorized by the appropriate body.
 - 2. When making public utterances, Public Officials must make it clear whether they are authorized to speak on behalf of the body of which they are a member, or whether they are presenting their own views.
 - 3. Public Officials cannot interfere with the manner by which the City Manager performs his or her duties.

- C. Public Officials who are members of boards and commissions must limit their activities to matters within their subject matter jurisdiction.
 - 1. Boards and commissions can address only those matters determined by the BMC or by the City Council to be within their subject matter jurisdiction; staff need not place on an agenda, provide resources for or implement requests, directions or actions outside that jurisdiction. Unless directed otherwise by the City Council, Commissions and Boards must refrain from consideration of policy issues that are under active consideration by the City Council.
 - 2. The City Council as a whole will provide direction and guidance to its subsidiary bodies.
- D. City resources must be used solely for proper governmental purposes, and only with proper authorization.
 - 1. City letterhead may only be used by Public Officials for official City business.
 - 2. City employees cannot be asked or directed to spend time on non-City business.
 - 3. Public Officials cannot use or disclose information obtained through City service for improper purposes.

SECTION 7. *Enforcement.* To enforce the Core Principles, and the polices set forth in this Resolution to implement those Core Principles, the City Council adopts the following requirements for enforcement:

- A. A complaint regarding a violation of the Code of Conduct may be filed with the Mayor, the City Manager, or the City Attorney (collectively, the "Investigator"). In the event of a complaint against the Mayor, an individual can file a complaint with the Mayor Pro Tem.
- B. Upon receiving a complaint, the person receiving the complaint may take one of the following actions depending on the circumstances of the alleged violations of law or policy:
 - 1. Take no action;
 - 2. Conduct a preliminary investigation of the allegations before recommending any action. Following such a preliminary investigation into the complaint, the Investigator may then either take no action or place the matter on a future City Council agenda with a recommendation for consideration; or
 - 3. Place the matter on a future City Council agenda for consideration.

- C. If a complaint is placed on the City Council agenda, the City Council may take the following action:
1. Take no action;
 2. Initiate an investigation of the allegations before considering any discipline identified in this Resolution; or
 3. Based upon substantive evidence, take one of the disciplinary actions identified in this Resolution.
 4. Nothing in this policy precludes individual City Council Members from making public statements regarding alleged conduct.
- D. In addition to any other remedy provided by applicable law, the City Council may undertake one or more of the following actions after finding a violation of this Resolution occurred:
1. **Admonition.** This is the least severe form of action. An admonition may typically be directed to all members of the City Council, reminding them that a particular type of behavior is in violation of law or City policy. An admonition may be issued by the City Council before any findings of fact regarding allegations, and because it is a warning or reminder, would not necessarily require an investigation or separate hearings to determine whether the allegation is true.
 2. **Sanction.** This is the next most severe form of action. Sanction may be directed to a particular member of the City Council based on a particular action (or set of actions) that is determined to be in violation of law or City policy. A sanction is distinguished from censure in that it is not a punishment. A sanction may be issued based upon City Council review and consideration of a written allegation of a policy violation. The member accused of a violation will have an opportunity to provide a written response to the allegation. A sanction may be issued by the City Council and because it is not punishment or discipline, would not necessarily require an investigation or separate hearings.
 3. **Censure.** Censure is the most severe form of action. Censure is a formal statement of the City Council officially reprimanding one of its members. It is a punitive action, which serves as a penalty imposed for wrongdoing, but it carries no fine or suspension of the rights of the member as an elected official. Censure should be used for cases in which the City Council determines that the violation of law or policy is a serious offense. To protect the overriding right to freedom of speech, the City Council cannot impose censure on any of its members for the exercise of his or her First Amendment rights, no matter how distasteful the expression was to the City Council and the City. However, nothing can be construed to prohibit the City Council from collectively condemning and expressing their strong disapprobation of such remarks. A decision to censure requires the adoption of a Resolution making findings with regard to the specific charges, based on substantial evidence, and approved by a two-thirds vote of the City Council.

- E. If the City Council censures one of its members it can also take the following actions:
1. Remove the Council Member from a City board or commission;
 2. Remove the Council Member from an independent board or commission other than the City if allowed by the by-laws of that board or commission (e.g., regional boards);
 3. Request for an apology to City Council, the complainant, or both;
 4. Remove access privileges to City Hall other than for areas that are publicly accessible; and
 5. Such additional actions that may be available through judicial intervention.

SECTION 8. *Rules of Procedure for Meetings; Authority.* Rules of Procedure for City Council meetings are adopted pursuant to Government Code § 36813. In the absence of separate procedural rules for individual boards and commissions, the Rules of Procedure adopted by this Resolution will apply to all City subsidiary boards and commissions. These Rules are intended to comply with, the Ralph M. Brown Act (Government Code §§ 54950-54962). The Brown Act will supersede any conflicting provision of the Rules.

SECTION 9. *General Rules.*

- A. Rules of Order. Pursuant to Bellflower Municipal Code ("BMC") § 2.040.060, the City Council finds as follows:
1. City Council proceedings should be governed by common sense and good taste. Pursuant to applicable laws, including, without limitation, the BMC, any issue of procedure relating to the conduct of a meeting or hearing not otherwise provided for in these Rules may be determined by the Mayor, subject to a vote of the entire Council. In addition, the City Council may, upon majority vote, alter or modify any provision of this Policy when appropriate or desirable.
 2. These Rules are adopted to expedite the City Council's business transactions in an orderly fashion and are procedural only. Failure to strictly observe these rules will not affect the City Council's jurisdiction or invalidate any Council action conforming with applicable law.

B. Right of Floor.

Council Members wishing to speak must first be recognized by the Mayor and, with the exception of Council Reports, limit any remarks to the agenda matter being considered.

C. City Manager.

The City Manager will attend all meetings of the City Council unless excused. In his/her absence, the City Manager will designate an Acting City Manager to attend. The City Manager may make recommendations and has the right to take part in all City Council discussions of the Council, but cannot vote.

D. City Attorney.

The City Attorney will attend all meetings of the Council unless excused, and in his/her absence, the Assistant City Attorney will attend. The City Attorney, upon request, may give opinions, either written or oral, on questions of law and act as the City Council's parliamentarian.

E. City Clerk.

The City Clerk will attend all meetings of the Council unless excused. In his/her absence, the Deputy City Clerk will attend. The City Clerk will record, prepare, and maintain the City Council's official record and perform other related duties as prescribed by the City Council and/or City Manager.

SECTION 10. *Mayor – Duties.*

A. Presiding Officer

The Mayor, if present, will preside at all meetings. In the Mayor's absence, the Mayor Pro Tem will preside. In the absence of both, the Council Members present will select a Temporary Presiding Officer by majority vote.

B. Call to Order

The Mayor or Mayor Pro Tem will bring the meeting to order at the time noticed in accordance with applicable law. In the absence of both, the meeting will be called to order by the City Clerk.

C. Point of Order

The Mayor will determine all points of order, subject to the right of any Council Member to appeal to a vote of a majority of the quorum.

D. Motion to Be Stated

The Mayor will state all motions submitted for a vote and announce the result. A roll call vote must be taken upon the request of any Council Member.

SECTION 11. *Preparation of Agenda.*

A. Order of the Agenda

The Agenda will be organized in accordance with Resolution No. 05-45.

B. Minutes

Unless requested by a majority of the quorum, minutes may be approved without reading.

C. Future Agenda Items

Each Agenda may include an Agenda item entitled "Council Reports." During this section of the Agenda any Council Member may make a motion only to place an item on a future Agenda. The motion is non-debatable. Placement of an item on a future Agenda requires a majority vote. The City Manager has discretion as to when the item will be placed on the Agenda, unless otherwise directed by the City Council.

SECTION 12. *Citizens' Rights.*

A. Persons seeking to address the City Council must comply with the following:

1. Members of the public may address the City Council only on items within the subject-matter jurisdiction of the City Council. A determination of whether an item is appropriate for discussion will be made by the Mayor with the City Council's consent.
2. Persons addressing the City Council may sign in on the sign-in sheet provided.
3. Each speaker may be limited to a time period determined by the Mayor for Public Comment and on all other items on the Agenda.

4. All remarks must be directed to the City Council as a body and not to any particular Council Member or City employee.
5. No person, other than Council Members and the person having the floor are permitted to participate in the discussion except as otherwise requested by the Mayor.
6. No question may be asked of Council Members or City employees except through the Mayor.
7. When any identifiable group of persons, as distinguished from the general public, seeks to address the City Council on the same agenda item, the Mayor has the discretion to ask that the group select a spokesperson to address the City Council. If additional issues are to be presented at the hearing by any other member of such group, the Mayor may limit the number of persons to address the City Council to avoid unnecessary repetition of information presented to the City Council.

B. Written Materials

Any person may submit written materials to the City Council for consideration. Should a person wish to have written materials considered by the City Council as part of an agenda item other than a public hearing, they must be submitted during working hours not later than twenty-four (24) hours before the scheduled meeting.

C. Disrupting legal meetings

Any member of the public making disruptive remarks or who becomes disruptive while addressing the Council or attending the City Council meeting so as to disrupt, disturb or otherwise impede the orderly conduct of the City Council meeting will be removed forthwith by the Presiding Officer and barred from further audience before the City Council at that meeting unless permission to continue is granted by a majority vote of the City Council.

SECTION 13. *Miscellaneous Rules.*

A. Silence

During a collective vote (Ayes and Nays), silence of any Council Member denotes an affirmative vote.

B. Continuance of an Item

Upon a Council Member's request and by majority vote, an item (not subject to a deadline) may be continued to the next agreed upon meeting. Anyone may request a continuance of an item and the City Council, by majority vote, may grant a continuance.

C. Failure to Vote

Every Council Member should vote unless disqualified by reason of a Conflict of Interest. If a member abstains because of a legal conflict of interest, he/she is not counted as part of the quorum and is not deemed to be voting.

If a member abstains for reasons other than a legal conflict of interest, he/she will be counted in establishing a quorum. Such an abstention will be counted with the majority vote of the quorum unless there is no majority in which case it will not be counted as a vote.

D. Lost Motions

1. A lost motion is one that fails to receive the necessary number of votes to carry. To revive a lost motion at the same meeting, the proper action is a motion to reconsider.
2. If a motion is lost on an Ordinance or action for the expenditure of money, or any motion when the legally required number of votes for passage is three; when two Members of the City Council are absent, the matter will be automatically continued to the next regular meeting. In the case of an Urgency Ordinance, the matter will be automatically continued when one Council Member is absent.

E. Motion to Reconsider

A motion to reconsider any action taken by the City Council may be made in accordance with the following:

1. The motion must be made by a Council Member, the majority vote, or, in the case of a lost motion, by any Council Member and may be seconded by any Council Member.
2. Except as otherwise provided, the motion must be made before the adjournment of the meeting at which the original action was taken.
3. The motion is debatable and has precedence over a pending motion.

4. Except as otherwise provided, if the action to be reconsidered is a Public Hearing item, it must be re-noticed in the event the motion to reconsider passes. Where it is clearly established that all interested members of the public are still present, the item may be reconsidered without further notice.

F. Tie Votes

If a tie vote occurs when a Member of the City Council is absent, the item will be automatically continued once to the next regular meeting of the City Council. Except in the event of an appeal to the City Council, if a tie vote occurs as a result of the abstention of a Council Member, the motion is lost. If a tie vote on an appeal occurs as a result of the abstention of a Council Member, the appeal is deemed denied.

G. Changing the Vote

A Council Member may change his/her vote only if the change is made immediately following the announcement of the vote by the Mayor and before the next agenda item is announced.

H. Abstention

A Council Member who publicly announces that he/she is abstaining from voting on a particular matter will not subsequently be allowed to withdraw the abstention.

SECTION 14. *Rules of Debate.*

A. Mayor as Presiding Officer

The Mayor may move, second, and debate from the Chair, retains all rights and privileges of a Council Member.

B. Appeals

Any ruling of the Mayor may be appealed at the request of any Council Member. The Mayor must call for a roll call vote to determine if the ruling is upheld.

C. Motions

A motion may be debated by the City Council after it is made. During debate, any Member of the City Council may "Call for a second." If a second is not forthcoming, the motion dies for lack of a second. If the motion is seconded, the debate may continue.

D. Precedence of Motions

When a motion is before the Council, no other motion may be considered except:

1. Motion to Amend - Debatable only as it relates to the amendment.

An amendment which modifies the motion is an order; however, a substitute motion is in order if the intent is changed. Amendments are voted on first, the main motion vote is last. A motion may be amended more than once with each amendment being voted on separately. There may only be one amending motion on the floor at any one time.

2. Motion to Postpone - A motion to postpone indefinitely is debatable.

If such a motion is adopted, the principal question is lost. Motion to postpone to a definite time is subject to debate and amendment as it relates to propriety of the postponement and time set.

3. Motion to Table - Undebatable and not subject to amendment.

The purpose of a motion to table is to temporarily bypass the item. If a motion to table is adopted, the item may be taken from the table at any time before the adjournment of the next regular meeting. If the item is not taken from the table in the time specified, the business of the item is lost.

4. Motion for Previous Question

A motion for previous question closes debate on the main motion and is non-debatable. If motion fails, debate is reopened; if motion passes, then vote must be taken on the main motion.

SECTION 15. *Adjournment.* At 10:30 p.m., if business has not concluded, no new business will be considered unless by a majority vote the City Council agrees to begin new business. Items under consideration at 10:30 p.m. may be concluded. Any remaining items will be postponed to the next City Council meeting.

SECTION 16. *Amendment/Suspension.* The City Council may amend or suspend these rules at any time upon majority vote of the City Council.

SECTION 17. *Administrative Mandamus.* Persons who are dissatisfied with a decision of the City Council may have the right to seek review of that decision by a court. In addition, the City has adopted §1094.6 of the Code of Civil Procedure which generally limits to ninety (90) days the time within which the decision of City boards and agencies may be judicially challenged.

SECTION 18. Unless specifically referenced, this Resolution supersedes all previous resolutions purporting to establish rules and procedures for rules of conduct and procedures for City Council meetings including, without limitation, Resolution No. 15-26 (adopted June 8, 2015). Accordingly, those resolutions are rendered moot upon adoption of this Resolution and are accordingly repealed. Nothing in this Resolution is intended to, nor does it, supersede the City's most recently adopted Conflict of Interest Code.

SECTION 19. The Mayor, or presiding officer, is hereby authorized to affix his signature to this Resolution signifying its adoption by the City Council of the City of Bellflower, and the City Clerk, or her duly appointed deputy, is directed to attest thereto.

SECTION 20. This Resolution will become effective immediately upon adoption.

PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF BELLFLOWER THIS 12TH DAY OF DECEMBER 2016.



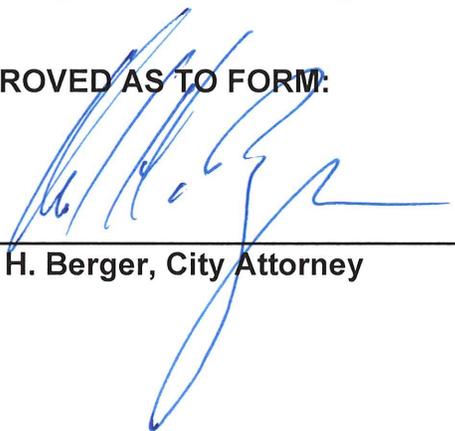
Dan Koops, Mayor

ATTEST:



Mayra Ochiqui, City Clerk

APPROVED AS TO FORM:



Karl H. Berger, City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)SS
CITY OF BELLFLOWER)

I, **Mayra Ochiqui**, City Clerk of the City of Bellflower, California, do hereby certify under penalty of perjury that the foregoing Resolution No. 16-87 was duly passed, approved, and adopted by the City Council of the City of Bellflower at its Regular Meeting of December 12, 2016, by the following vote to wit:

AYES: Council Members – Dunton, Garza, Santa Ines, Schnablegger,
and Mayor Koops

Dated: December 13, 2016



Mayra Ochiqui, City Clerk
City of Bellflower, California

(SEAL)