

**CITY COUNCIL, CITY OF ORINDA**  
**POLICIES AND PROCEDURES MANUAL**

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## **I. Authority**

The City Council establishes these Rules of Procedure for the conduct of meetings. The following Rules shall be in effect upon their adoption by the City Council and until such time as they are amended or new Rules are adopted in the manner provided by these Rules.

## **2. Meetings**

### **2.1 Meeting Dates and Times**

2.1.1. Dates. Regular meetings will be held on the first and third Tuesday of each month or as set by calendar adopted by the City Council in December or January of each calendar year. Adjourned regular, workshop or special meetings may be called by the Mayor or a majority of the Council. If the meeting date should fall on a legal holiday, the Council shall meet at an alternate time and date designated by the Council.

2.1.2. Starting Time. All regular meetings will convene at 7:00 p.m. Meetings will be held at the Library Auditorium at 26 Orinda Way, Orinda, unless stated otherwise in the notice. Meetings may be preceded or followed by special meetings, including closed sessions.

2.1.3. Ending Time. Meetings will adjourn at or before 11:00 p.m. A majority vote of the City Council will be required to continue the meeting past 11:00 p.m. A unanimous vote of the City Council will be required to continue meetings beyond 11:30 p.m. A continuance beyond 11:30 shall specify time of adjournment. More than one such continuance may be adopted.

### **2.2 Closed Sessions**

A closed session may be held at any regular or special meeting for any purpose authorized by the Brown Act. It is a violation of the Brown Act to disclose information obtained or presented in anticipation of or during a closed session, which shall be confidential. Public comment shall be received in open session prior to a closed session. The City Council will report out in open session any actions taken in closed session consistent with the requirements of the Brown Act.

### **2.3 Special Meetings**

Special meetings may be called by the Mayor or by a majority of the Council members. The City Attorney or the City Manager is authorized to call a special meeting when it is to be held immediately before or after a regular meeting and is to discuss a matter in closed session. The call for a special meeting must specify the day, hour, and place and shall specify the subject(s) to be considered. Twenty-four hours notice must be received prior to a special meeting by each Council member, the local newspaper of general circulation, and radio and television stations which have requested notice. Only matters

specified in the notice may be discussed at special meetings. The public shall be given an opportunity to address the Council before or during consideration of any matter described in the notice for the special meeting.

#### 2.4 Quorum

Three members of the Council shall constitute a quorum necessary to transact business. In the event a quorum is not in attendance, those attending will be named in the minutes, and they shall adjourn the meeting to a later set time.

#### 2.5 Adjournment

The Council may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment. If all Council members are absent from any regular or adjourned regular meeting, the City Clerk may declare the meeting adjourned to a stated time and place. The City Clerk shall post a copy of the order or notice of adjournment at City Hall and other places designated by the Council within twenty-four (24) hours after the time of adjournment. Whenever 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 adjournment meeting shall be held, it shall be held at the hour specified for regular meetings.

#### 2.6 Attendance

Council members must request that the Mayor issue an "excused absence" when they are unable to attend, or it will be noted in the minutes as an unexcused absence. The Mayor shall announce excused absences and reasons for such absences (if publicly known) during the roll call at the beginning of a meeting.

#### 2.7 Minutes of Proceedings

An account of all public proceedings of the City Council shall be recorded by the City Clerk and entered into official minute books of the Council following approval by the Council. Unless the Council directs otherwise in a specific instance, detailed (but not verbatim) minutes shall be prepared for regular meetings of the full Council, and summary action minutes shall be prepared for special meetings of the full Council.

#### 2.8 City Manager

The City Manager shall attend all meetings of the Council unless excused. The City Manager's designee shall substitute when the City Manager is absent.

#### 2.9 City Attorney

The City Attorney shall attend all meetings of the Council unless excused. The Deputy City Attorney shall attend in the City Attorney's absence. The City Attorney shall act as the Council's parliamentarian.

#### 2.10 City Clerk

The City Clerk shall attend all regular meetings of the Council unless excused, and in her/his absence, the City Clerk designee shall substitute. The City Clerk shall record, prepare and maintain the official record of the Council and perform other related duties as prescribed by the Council or the City Manager, or both.

#### 2.11 Department Heads/Employees

Department heads and employees shall attend Council meetings as directed by the City Manager.

#### 2.12 Public May Attend and Record Meetings

All meetings of the City Council (except closed sessions) shall be open to the public, including the news media. Meetings may be recorded by any means by anyone, provided such recording does not constitute disruptive conduct under Rule 4.4.

#### 2.13 Communication Using Mobile Devices

Use of a mobile device (e.g., cellular telephone, personal digital assistant) by a Council member to communicate in any way during a meeting is prohibited. If a Council member urgently needs to communicate via mobile device, the Council member should do so outside the Council chambers after announcing the reason for leaving.

#### 2.14 Recordings

All Regular Meetings of the City Council shall, to the extent feasible, be recorded by the City Clerk. Recordings are kept consistent with the City of Orinda Records Retention Program and are available from the City Clerk's office.

#### 2.15 Avoiding Brown Act Violations Relating to Meeting Attendance

Members of the Council shall comply fully with the requirements of the Brown Act, including those in Government Code section 54952.2 to avoid potential violations relating to attendance at meetings of such as conferences, meetings conducted by City staff/consultants, meetings presented by organizations other than the City, and meetings of other legislative bodies.

### 3. Agenda

#### 3.1 Order of Business

The business for a Regular meeting shall generally be shown on the agenda in the following order, but this sequence may be modified on a case-by-case basis by the City Manager in consultation with the Mayor:

- A. Call to Order/Roll Call
  - B. Pledge of Allegiance
  - C. Closed Session Report
  - D. Adoption of Agenda
  - E. Items for the Good of the City
  - F. Public Forum
  - G. Consent Calendar
  - H. Public Hearings
  - I. Policy Matters
  - J. Council Reports
  - K. City Manager's Report
  - L. Matters Initiated
  - M. Adjournment
- Closed Session (may be held before or after the meeting, or both)

#### 3.2 Agenda Preparation

Agendas for regular and special meetings shall be established by the City Manager, who shall consult with the Mayor concerning the sequence of agenda items and other procedural matters. The agenda shall be delivered to the Mayor and Council members and made available to members of the public consistent with the requirements of the Brown Act. The agenda shall specify the time and location of the meeting and contain a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session, if any. The description of each agenda item shall include the action recommended by the preparer of the report for the agenda item.

#### 3.3 Matters Initiated

To place an item on a future agenda, a Council member (including the Mayor) may make a motion to that effect during the Matters Initiated agenda item. In addition, a Council member (including the Mayor) may, at any time during a meeting, make a motion to place an item on a future agenda, if the item proposed for future consideration arises in relation to an item on the current agenda.

If the motion to place an item on a future agenda is seconded and approved by a majority vote of those Council members present, the proposed item will be placed on a future agenda. If the motion is silent regarding timing, the proposed item will be placed on a future agenda at the earliest appropriate time, as determined by the City Manager and

Mayor. If the motion provides specific direction regarding timing, the proposed item will be placed on a future agenda consistent with that direction. No discussion of the subject of the motion may occur except to explain the general nature of the item, including the issue of timing for Council's consideration of the item.

### 3.4 Agenda Posting

The City Clerk shall post the agenda at least 72 hours before a regular meeting and at least 24 hours before a special meeting in the following locations, which are freely accessible to members of the public: Orinda Community Center, Orinda Library, and Orinda City Hall. To the extent feasible, agendas shall also be posted on the City's website prior to meetings.

### 3.5 Agenda Materials

3.5.1 Documents. A staff report shall be prepared for each agenda item except in unusual circumstances. Attached to the staff report shall be documents received by or developed by staff that are pertinent to the staff report. Anyone may submit documents pertinent to an agenda item to the City Clerk; such documents shall be included in the agenda materials if they are received in time for inclusion in the packet and if multiple copies of voluminous documents are provided.

3.5.2 Copies of agenda materials. Copies of the agenda materials and other documents distributed to Council members before a meeting (excluding documents subject to attorney-client confidentiality and documents distributed in connection with a closed session) shall be available for public inspection when the packet is released to the City Council. The public can view materials before the meeting at the office of the City Clerk, the Orinda Library and, on the City website. At the meeting, a public copy will be available for review. Copies of materials distributed by City staff and others at the meeting shall be made available to members of the public as soon as practicable. Changes and additions to staff reports and late correspondence will be provided to Council members and made available to the public before the meeting when possible.

### 3.6 Consent Calendar

Items listed on the Consent Calendar are those items likely not to require Council discussion. Any item may be pulled by a Council member or member of the public for separate discussion or clarification and vote.

### 3.7 Public Hearings

A matter shall be set for public hearing in the following situations:

- a. A quasi-judicial land use decision (e.g., an appeal of a Planning Commission decision)
- b. Approval of a CEQA document for a City project.

c. Any other matter for which a public hearing is required by law or for which a hearing would be in the public interest.

#### **4. Public Participation**

##### 4.1 Addressing the Council

Each person wishing to address the Council will be asked to submit a speaker slip to the City Clerk. Completing this form is optional. People will be permitted to speak even if they elect not to provide some or all of the information requested on the form. After the Council has heard from everyone who submitted speaker slips, anyone electing not to submit a speaker slip will be asked to form a line at the lectern to indicate their desire to address the Council. Each person addressing the Council shall do so from the lectern. Providing a name, address, and other information is voluntary. All remarks shall be directed to the Mayor and Council as a body and not to any particular Council member. No person other than members of the Council and the person having the floor shall be permitted to enter into the discussion.

##### 4.2 Public Forum

During Public Forum any person may address the Council on an item that is (1) within the subject matter jurisdiction of the Council and (2) not otherwise on the agenda, except that if a speaker will not be present during an agenda item later in the calendar for that meeting, the speaker may address that agenda item during Public Forum but not later.

##### 4.3 Speech Content

Statements by a member of the public shall be related to the agenda item at hand, except during Public Forum. Derogatory and discriminatory remarks relating to gender, sexual orientation, race or ethnicity, creed, religion, national origin, disability, and personal physical characteristics or conditions, slander, obscenities, and knowing falsehoods are irrelevant per se. If such remarks or other irrelevant statements substantially disrupt or disturb the peace and order of a City Council meeting they will be deemed cause for removal of the speaker from the meeting, as provided in sections 4.4 and 4.5 of these Rules. The City Council shall not prohibit lawful public criticism of the policies, procedures, programs and services of the City or the acts or omissions of the City Council.

##### 4.4 Disruptive Conduct

Conduct, including applauding and booing, which substantially disrupts or disturbs the peace and order of a City Council meeting is prohibited and is cause for removal at the request of the Mayor. On instructions by the Mayor, a police officer may be called for the purpose of removing any person who, in the Mayor's judgment, has violated the rules of conduct or otherwise disrupted the meeting. If a meeting is willfully interrupted by one or more persons so as to frustrate the orderly conduct of the meeting and the orderly

conduct cannot be restored by removing the group or the person, the Council may, by majority vote, order the meeting cleared of members of the public and then continue in session with members of the press remaining present, unless they also participated in the disturbance. In addition, or in the alternative, the City Council may, by majority vote, declare a recess until order is restored.

#### 4.5 Warning and Arrest

If arrest by a police officer is necessary to restore order, the presiding officer shall give a warning and describe the offending conduct in substantially the following manner:

“Your conduct (describe the offending conduct specifically) is disrupting this meeting and the public’s business. Your conduct is a violation of Penal Code section 403. You must stop immediately. If you do not stop, I will direct the police officer to place you under arrest.”

#### 4.6 Written Communications

Correspondence, including communications relating to a specific matter on a Council agenda, will be handled as described in Section 11.1. If correspondence is received too late to be included in the agenda packet, the City Clerk will, to the extent feasible, endeavor to distribute the late correspondence at the Council meeting. Anyone submitting voluminous late correspondence and/or submitting late correspondence to the City Clerk less than four (4) hours before a Council meeting should bring at least fifteen (15) copies to the meeting. After receiving late correspondence, the Council may elect to continue the item to a future meeting if it determines the late correspondence is too voluminous to consider fully. Alternatively, the Council may elect to consider the matter if it has had adequate time to consider all of the information presented. Such a determination may, but need not, be made by formal motion during the meeting.

#### 4.7 Time Limits

Public comment shall generally be limited to 3 minutes per individual speaker per agenda item, except that the Mayor, with the concurrence of the City Council, may set a different time limit based upon the number of persons wishing to speak, the complexity of the item, the length of the agenda, the hour, and other factors.

### **5. Conducting Meetings**

#### 5.1 Presiding Officer

The Mayor or Vice Mayor shall preside and call the meeting to order at the hour appointed. In the absence of both, the meeting shall be called to order by the City Clerk and those Council members present shall proceed to elect a temporary Presiding Officer. Before proceeding with the business of the Council, the City Clerk shall perform a formal roll call. The Presiding Officer may move, second, and debate from the Chair, and shall not be deprived of any rights and privileges of a Council member.



## 5.2 Actions Limited to Posted Agenda

The City Council shall not take action on any item not appearing on the posted agenda except when there is an emergency, there is a need for immediate action, or the item was posted for a prior meeting less than 5 days before and was continued, as prescribed more fully in Gov. Code §54954.2.

## 5.3 Continuance of an Item

An agenda item may be continued by the City Council by a majority vote. (See section 5.4.6.c.)

## 5.4 Discussion

When an agenda item is addressed, the Mayor shall first ask for any staff comments or additions to the written staff report. Next, the Mayor shall ask for questions from the Council of staff. After that, the Council shall receive public comment. After public comments, the Mayor shall close the public comment portion and open the item for discussion by the Council, which shall be subject to the following rules.

5.4.1. Getting the Floor. Every Council member desiring to speak shall address the Mayor and, when recognized by the Mayor, shall limit discussion to the questions under debate.

5.4.2. Interruptions. A Council member, once recognized, shall not be interrupted when speaking except to be called to order, or as otherwise provided. If a Council member, while speaking, is called to order, the Council member shall cease speaking until the question of order is determined; if determined to be in order, the Council member shall be permitted to proceed.

5.4.3. Privilege of Closing Debate. The Council member making a motion for adoption of an ordinance or resolution shall have the privilege of closing the debate on that motion, subject to other motions which may be before the Council.

5.4.4. Motion to Be Stated. The Mayor shall state all motions submitted for a vote and announce the result. A roll call vote shall be taken upon the request of any Council member. No action shall be taken by secret ballot.

5.4.5. Appeals. Any ruling of the Mayor may be appealed at the request of a Council member. The Mayor shall call for a roll call vote to determine if the ruling is upheld.

5.4.6. Precedence of Motions. When a motion is before the Council, no other motion shall be entertained except:

a. Motion to Amend. A motion to amend, which modifies the original motion, is in order but is debatable only as it relates to the amendment. 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 shall only be one amending motion on the floor at any one time.

b. Substitute Motions. A substitute motion is in order for the purpose of taking out the main motion altogether and replacing it with a new and different motion. A substitute motion must be voted on before an amendment of the main motion, since if the substitute motion is adopted the main motion dies and so does any amendment of the main motion.

c. Motion to Postpone. A motion to postpone to a definite time is subject to debate and amendment as it relates to propriety of the postponement and time set. A motion to postpone a quasi-judicial hearing must set a definite date for the hearing. If a motion to postpone indefinitely is adopted, the agenda item shall be carried forward on the City Clerk's Future Agenda Items list for up to one year, then dropped if not reinstated to the agenda.

d. Motion to Table. A motion to table is not debatable and not subject to amendment. The purpose of a motion to table is to suspend the item for an indefinite time.

5.4.7. Motions Not Subject to Debate. All motions are debatable except for the following, which shall be put to an immediate vote:

- a. Motion to adjourn, which requires a simple majority.
- b. Motion to recess, which requires a simple majority.
- c. Motion to table, which requires a simple majority.
- d. Motion to limit debate ("I move the question" or "I move to limit debate of this item to \_\_\_ minutes"), which requires a 2/3 vote.

5.4.8. Reconsideration. A request for reconsideration may be made during a meeting in which a decision has been made or at the next regularly-scheduled Council meeting. A request for reconsideration may be made only by a Council member who voted in the majority on the original decision. Reconsideration of a matter involves three decisions, which must occur in the following order:

- a. First, the Council must decide whether or not to consider the request on a future agenda. (No discussion is permitted at this point on the validity of the request or the merits of the underlying action to be reconsidered.)
- b. Second, if a majority of the Council votes to place the issue on a future agenda, there are two agenda items:

- i. Whether to allow reconsideration or not and
  - ii. If reconsideration is permitted, whether the original decision should be changed or affirmed.
- c. A decision not to reconsider a matter under (b)(i) will be deemed to automatically include removal of the agenda item for reconsideration of the merits under (b)(ii).
- d. Unless a subject is reconsidered and a majority of the City Council votes to change the original decision, the original action stands and is final. However, the subject of the original decision (other than a quasi-judicial hearing such as a land use appeal) may be placed on a future agenda at any time as provided in these rules.
- e. Reconsideration of a decision on a land use appeal is governed by Orinda Municipal Code section 17.43.8.

5.4.9. Conflict of Interest and Bias. A conflict of interest or even the appearance of a conflict of interest can diminish the public's confidence in the integrity of the governmental process. Therefore, a Council member who has a conflict of interest under the Political Reform Act or Government Code §1090 may not participate in the agenda item causing the conflict. The Council member must make a statement substantially as follows:

"I am unable to participate in this matter as a public official because I have a financial interest in the subject which creates a conflict of interest. The financial interest is [describe the conflict with particularity]." The public official must leave the room for the duration of the discussion of the item. If the discussion relates to the public official's real property or business (owned or controlled solely by the public official/and spouse/domestic partner), the public official may speak as a member of the general public and remain in the audience.

In addition, if a Council member's personal bias compromises the Council member's ability to act impartially with the interests of the City as a whole in mind, the Council member must leave the room and not participate in the agenda item. Bias may exist because of a Council member's (1) substantial involvement or familiarity with the subject of an agenda matter or (2) close association with the persons involved, a connection which may or may not be known by the public or the other members of the Council. Even if the Council member believes s/he is not biased, in the interests of open government, it is advisable at the very least to disclose that association, involvement, or experience prior to participating in the agenda item. See Rule 6.5.

5.4.10. Protests. A Council member shall have the right to enter into public record reasons for dissent or protests against any motion carried by the majority.

5.4.11. Limits on speech and conduct. See sections 4.3, 4.4, and 4.5, which apply also to the speech and conduct of City Council members.

5.4.12. Rules of Order. Except as otherwise provided in these Rules, the current edition of “Roberts Rules of Order” shall govern the conduct of the meetings of the City Council.

## **6. Quasi-Judicial Hearings**

When a public hearing is required for an agenda item, the Mayor shall first ask for any staff comments or additions to the written staff report for the hearing. Next, the Mayor shall ask for questions from the Council of staff. Next, Council members shall disclose ex parte communications as described below. After that, the Council shall receive public comment, as outlined below.

### **6.1 Ex Parte Communications**

A Council member shall disclose on the record all communication (e.g., email, other written correspondence, conversations, and site visits) occurring outside the hearing that relate to the subject of the hearing. The Council member shall identify with whom s/he communicated, what was communicated, and for site visits, where on the site the Council member went and what the Council member looked at and observed. Council members may also elect to forward copies of written ex parte communication to the City Clerk, who will include such correspondence in the staff reports for relevant agenda items and/or forward it to the whole City Council, if doing so would not violate the Brown Act.

### **6.2 Testimony**

6.2.1. The purpose of this portion of the public hearing is to provide an opportunity for persons interested in the subject of the hearing to testify in support of or opposition to the matter being heard.

6.2.2. Each person wishing to testify may do so as described in section 4.1.

6.2.3. The order of testimony shall be as follows:

a. The applicant (and the applicant’s design professional, attorney, and other representatives, if any) shall speak first and together shall have a total of 15 minutes to present the project. A portion of this time may be reserved by the applicant for final remarks after public testimony has concluded.

b. The appellant, if not the applicant, (and the appellant’s design professional, attorney, and other representatives, if any) shall also have a total of 15 minutes to present the basis for the appeal.

c. Those persons other than the applicant and the appellant (and their representatives) shall have a total of 3 minutes each to present testimony, except that to preserve order and eliminate repetitious testimony from a large group, the Mayor may direct a like-minded group to appoint a spokesperson to represent the point of view of the group. At the Mayor's discretion, speakers favoring the project may be asked to so indicate and may be asked to present their testimony consecutively and likewise those opposed.

d. Regardless of the time limits stated above, the time limit per individual speaker may be set by the Mayor, with the concurrence of the City Council, at the beginning of a public hearing, based upon the number of persons wishing to speak, the complexity of the item, the length of the agenda, the hour, and other factors.

6.2.4. Questions by speakers may be noted and addressed prior to Council deliberation.

### 6.3 Council Deliberation

6.3.1. After the Mayor has determined that no other member of the audience wishes to speak, the Mayor shall close the public testimony portion of the hearing and the matter shall be taken up by the City Council.

6.3.2. The Council may ask questions of speakers for clarification during the public testimony portion and during deliberations.

### 6.4 Council Action

6.4.1. Council may, at this time, continue a matter to a specific future date to obtain additional information. Continuing a public hearing to a specific date does not require additional notice.

6.4.2. The Council may vote on the item, making findings of fact as required by law

### 6.5 Due Process

A quasi-judicial hearing that involves property rights (a land use matter or a personnel matter) must incorporate the standards of constitutional due process. This type of hearing must be fair and open, subject to employee privacy rights. The elements of due process are adequate notice, an opportunity to be heard, an impartial decision-maker, a decision based on substantial evidence, and findings to document the basis of the decision.

#### 6.5.1. Impartiality

a. Rule. A public official must perform the duties of office free from any personal or pecuniary interest. If there is an actual bias or financial interest that could interfere with a Council member's judgment, the Council member should not

participate in the agenda item and should leave the Council chambers for the duration of the agenda item.

b. Open Mind. A Council member must have an open mind and receive all evidence presented at the hearing. In addition, a Council member shall disclose ex parte communications (see §6.1 above) before making a determination on the merits. If the Council member has a fixed position on a matter prior to the hearing or if the Council member will be influenced by information not in the evidence, the Council member shall not participate in the hearing.

c. Staying Neutral. In order to assure that a Council member has not become so embroiled or otherwise involved in a matter that s/he cannot be impartial, the following rules shall apply:

i. Staff Contacts. A Council member shall refrain from contact outside the public meeting context with City staff concerning the merits of matters which will or may come to the City Council for a quasi-judicial hearing. Regardless of the above, a Council member may obtain factual information from staff relating to the hearing.

ii. Commissions and Committees. A Council member must not express opinions on the merits of an item that is or will be the subject of a quasi-judicial hearing within the subject matter jurisdiction of the Planning Commission to a Planning Commissioner prior to or during the hearing. In case such communications have occurred, any such communication from a Council member to a Planning Commissioner prior to a decision of the Commission on the matter shall be disclosed by the Commissioner in the course of the hearing of the subject by the Planning Commission.

iii. Interested Parties. A Council member shall refrain from becoming involved in discussions, negotiations, and other activities relating to a matter that is likely to be subject to a hearing by the City Council, unless the full scope of the Council member's involvement and conversations is disclosed during the Council's consideration of the matter and there is no bias that has resulted from those activities.

d. Involvement or Bias. A Council member may be involved in a matter before the City Council due to a number of factors, including but not limited to an ongoing personal acquaintance, the proximity of real property, a business relationship, or community activities. In such a situation, where the Council member is unable to make an impartial decision, the Council member should recuse himself or herself, make a brief explanation of the facts behind recusal, and leave the room.

6.5.2 Absence During a Quasi-Judicial Hearing. A Council member otherwise qualified to vote may not vote on a matter if the Council member was absent from all or part of the hearing, unless the Council member both (1) reviews the minutes and the staff report or listens to the audiotape of the entire portion of the hearing s/he missed, if the minutes are not available, and (2) reviews all physical and written evidence introduced at the hearing before the meeting at which the decision is to be rendered.

## **7. Voting**

### **7.1. Majority Vote Required**

An affirmative vote of at least three Council members of the Council is required by law to adopt an ordinance, a resolution, and an order for the payment of money. An urgency (emergency) ordinance must be adopted by at least a 4/5 vote. Other matters may be adopted by the majority present.

### **7.2 Roll Call Votes**

On demand by any Council member, made before the "Noes" are called for, a roll call vote shall be taken on the motion before the Council. The Mayor's name shall be called last with other Council members' names called at random by the City Clerk. Council members shall not give explanations for their vote during roll call.

### **7.3 Silence**

During a collective vote (ayes and noes), silence of any Council member denotes an affirmative vote.

### **7.4 Tie Vote**

A tie vote means that a motion fails. In the context of a public hearing on a land use matter, a tie vote means denial of the project.

### **7.5 Abstention**

Abstaining from a vote (other than due to recusal) constitutes a vote with the majority, except that where there is a tie vote, an abstention constitutes a vote for the motion.

## **8. Officers**

### **8.1 Mayor**

The Council shall elect a Mayor at the first regular meeting of December of each year, or as soon thereafter as possible following the confirmation of the canvass of ballots by the County Clerk; or at the first regular meeting after the office of Mayor becomes vacant for any reason. The term of office of the Mayor is one year. An election to fill a vacancy occurring in mid-term shall be for the remaining portion of the one-year term. The election or removal of Mayor requires three affirmative votes.

The Mayor shall be recognized as the official head of the City for all ceremonial purposes, by the courts for the purpose of serving civil process and by the Governor for military purposes. In the time of public danger or emergency, the Mayor, with the consent of the Council, shall cause order to be maintained and enforce laws. The Mayor

shall sign all Ordinances and Resolutions adopted by the Council when the Mayor is presiding.

## 8.2 Vice Mayor

The Council shall elect a Vice Mayor at the first regular meeting of December of each year, or as soon thereafter as possible following the confirmation of the canvass of ballots by the County Clerk; or at the first regular meeting after the office of Vice Mayor becomes vacant for any reason. The term of office of the Vice Mayor is one year. An election to fill a vacancy occurring in mid-term shall be for the remaining portion of the one-year term. The election or removal of Vice Mayor requires three affirmative votes. The Vice Mayor shall serve all functions of the Mayor when the Mayor is unable or unavailable to fulfill those functions.

## 9. Boards, Commissions, and Committees

### 9.1 Council Appointments

As soon as practicable following the annual December reorganization meeting, the Mayor shall announce nominations of Council members to serve in various roles requiring a Council representative; the nominations are subject to the review and approval of the City Council.

### 9.2 City Advisory Bodies, Regional Boards, and Commissions

The City Council may create commissions, committees, and other groups to advise the Council. The Council shall appoint the members of those subordinate bodies as well as City representatives to Regional Boards and Commissions.

## 10. Ordinances

### 10.1 Document Preparation and Approval

All ordinances must be drafted by or approved by the City Attorney before being placed on the agenda.

### 10.2 Ordinance Introduction/Adoption

The title of a proposed ordinance will be considered to be read, unless a Council member requests a full reading. Ordinances shall not be adopted within five days of their introduction, or at other than regular Council meetings. However, an urgency ordinance may be passed immediately upon introduction, at either a regular or a special meeting, if a resolution substantiating the urgency has been adopted first.

### 10.3 Ordinance Preservation



Following adoption of an ordinance, the City Clerk shall assign a number to the ordinance, publish a summary and post the full text according to law. The ordinance shall be filed and preserved in the City Clerk's office.

## 11. Administrative Matters

### 11.1 Correspondence

#### 11.1.1 Electronic Correspondence

Council members shall use accounts issued to them by the City for all electronic correspondence (e.g., email) regarding City business. Council members shall not use accounts issued to them by the City for personal correspondence.

Council members may elect to forward copies of emails they receive to the City Clerk, who will include such emails in the staff reports for relevant agenda items and/or forward the emails to the whole City Council, if doing so would not violate the Brown Act.

Emails sent to the whole City Council via a general City email address will be reviewed by the City Manager or his/her designee and forwarded to all Council members, if doing so would not violate the Brown Act.

#### 11.1.2 Other Correspondence

Written correspondence received by a Council member at City Hall by postal service, personal delivery, and messenger service shall be opened by staff and handled consistent with the City of Orinda Records Retention Program, which may require the City to retain a copy. Council members may elect to forward copies of written correspondence they receive to the City Clerk, who will include such correspondence in the staff reports for relevant agenda items and/or forward it to the whole City Council, if doing so would not violate the Brown Act.

#### 11.1.3 Website Privacy Notice

The City's website privacy notice should explain that the public is encouraged to communicate with Council members by email and other means, but that the public should be aware that email and other written correspondence, including messages intended to be confidential, may be subject to disclosure under the California Public Records Act. Additionally, the privacy notice should explain that such correspondence may be forwarded to other Council members, City staff and/or the public generally.

#### 11.1.4 Compliance with State Law

The City retains electronic and other correspondence in accordance with State law and the City's adopted Records Retention Program, which is available from the City Clerk. For public records, the City complies with the State Public Records Act.

## 11.2 Confidentiality

Matters discussed in closed session and matters contained in City Attorney confidential memoranda are confidential and shall not be disclosed to anyone without prior authorization from the City Council acting together (closed session information) or from the City Attorney (confidential communications from the City Attorney).

## 11.3 Communications with the Public

Council members shall be clear in communications with the public when the opinions and positions they convey are their own individual positions and when they have been authorized by the Council to speak for the Council as a whole.

## 11.4 Relations with Staff

As required by OMC §2.08.080, Council members of the City Council shall deal with employees of the City through the City Manager, except to obtain information as necessary, in a limited manner.

# **12. Emergency Procedures**

## 12.1 Emergency Special Meetings

Emergency special meetings may be called by the Mayor, a majority of the Council members, or the City Manager only in accordance with state law (see Government Code section 54956.5), which defines qualifying emergencies narrowly (e.g., work stoppage, crippling activity, or other activity that severely impairs public health and/or safety, crippling disaster, mass destruction, terrorist act, threatened terrorist activity).

## 12.2 Emergency Special Closed Session

During an emergency meeting, the City Council may meet in closed session pursuant to Government Code section 54957 (threat to public security) if agreed to by a two-thirds vote of the members of the City Council present, or, if less than two-thirds of the members are present, by a unanimous vote of the members present.

## 12.3 Emergency and Urgent Amendments to Regular Agendas

Items may be added to a regular meeting agenda on an emergency or urgency basis only in accordance with state law (see Government Code section 54954.2(b)).

a. The Council may add an emergency item to its agenda at a regular meeting if, by majority vote, it determines that the matter in question constitutes an emergency situation pursuant to Government Code section 54956.5 (e.g., work stoppage, crippling activity, or other activity that severely impairs public health and/or safety, crippling disaster, mass destruction, terrorist act, threatened terrorist activity).

b. The Council may add an urgent item to its agenda at a regular meeting if it makes findings that: (1) there is a need to take immediate action, and (2) the need for action came to the attention of the City subsequent to the agenda being posted. Those findings must be approved by two-thirds of the members of the City Council present, or, if less than two-thirds of the members are present, a unanimous vote of those members present.

#### 12.4 Emergency Declarations and Findings

In the event of an emergency, the Council may declare a local state of emergency and/or confirm an emergency declaration made by the City Manager. The Council may also make findings as appropriate to determine that normally-applicable procedures do not apply. Examples include the California Environmental Quality Act (see CEQA Guidelines sections 15269 & 15359) and the Public Contact Code (see Govt. Code sections 1102 & 22050). The Council may also, consistent with state and federal law, impose local curfews and other restrictions to safeguard life and property during an emergency.

#### 12.5 Councilmembers Unavailable During Emergency

a. The City Council has designated the individuals serving in the following capacities to also serve as stand-by Councilmembers according to the ranked order in which they appear:

1. Planning Commission, Chair
2. Supplemental Sales Tax Oversight Commission, Chair
3. Finance Advisory Committee, Chair
4. Parks & Recreation Commission, Chair
5. Transportation Safety Advisory Committee, Chair
6. Planning Commission, Vice Chair
7. Supplemental Sales Tax Oversight Commission, Vice Chair
8. Finance Advisory Committee, Vice Chair
9. Parks & Recreation Commission, Vice Chair
10. Transportation Safety Advisory Committee, Vice Chair

Stand-by Councilmembers shall have the duties prescribed by State law. See Government Code section 8641.

b. If an insufficient number of the members of the Council are available to conduct necessary business at an emergency meeting, one or more stand-by Council members shall, following the ranked order above, be authorized to serve as Council members, for purposes of that emergency meeting only. The number of stand-by Councilmembers authorized to serve shall be the minimum number needed to conduct business at that emergency meeting of the City Council.

**13. Suspension and Amendment of These Rules**

13.1 Suspension

Any provision of these rules not required by state law or the Orinda Municipal Code may be temporarily suspended by a majority vote by the Council.

13.2 Amendment

These rules may be amended by resolution of the Council.

13.3 Rules Available for Public Review

A copy of these rules shall be available at all meetings of the Council for review by the public.

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