



ADMONITION AND CENSURE POLICY

PURPOSE

This policy applies only to the Mayor and City Council members for improper conduct that may result in admonition or censure.

POLICY

It is the policy of the City Council that all of its members shall abide by federal and state law, City ordinances, and City policies, including the Code of Ethics and Values. Violations of such law or policy tends to injure the good name of the City and to undermine the effectiveness of the City Council as a whole.

Depending on the circumstances of alleged violations of law or policy, the Council may initiate an investigation of the allegations prior to the filing of a request for any of the actions described in this policy.

Nothing in this policy shall preclude individual Council Members from making public statements regarding such alleged conduct.

At any point during any of the processes described in this policy, the Council may refer the matter, as appropriate, to the Santa Clara County District Attorney for investigation. Following such a referral, the Council may proceed with any actions it chooses to undertake under the provisions of this policy. While the Council has broad discretion in deciding actions it may choose to take in response to violations of law or policy, this policy provides definitions and procedures related to two types of action: admonition and censure.

Admonition

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, and that, if it occurs or is found to have occurred, could make a member subject to censure. An admonition may be issued in response to a particular alleged action or actions, although it would not necessarily have to be triggered by such allegations. An admonition may be issued by the City Council prior to 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. An admonition may also be treated as taking action to criticize a council member's conduct. The right to criticize is protected by the First Amendment, and may be done individually, or as a whole by motion.

Censure

Censure is an official reprimand or condemnation made by City Council in response to specified conduct by one of its own member. Censure is disciplinary in nature, and requires the formal adoption of a resolution setting forth the council member's alleged violations of law and/or

COUNCIL CONDUCT POLICY (cont.)

policies. Censure may require an investigation, and must protect the due process rights of the council member. Censure carries no fine or suspension of the rights of the council member as an elected official but a censure is a punitive action that serves as a punishment for wrongdoing.

PROCEDURE

Informal Admonition

An individual Council Member can make an admonition at any Council meeting during the Public Presentations or Reports of Members and Special Committees portion of the meeting.

Censure

The Council may request a formal censure action be placed on a Council agenda. The City Clerk shall provide notice of the possible censure to the Councilmember who is the subject of the action. The notice shall contain the specific charges on which the proposed censure is based and the date and time that the matter will be heard. Upon hearing the testimony, the Council may take action by resolution setting forth its findings and stating the terms of the censure.