

CITY OF EL CAJON MUNICIPAL CODE

Chapter 2.12 CITY COUNCIL PROCEDURES*

*Note to Chapter 2.12.

* Prior history: prior code Secs. 2-16.1 through 2-16.14; Ords. 2893, 3097, 3599 and 4018.

2.12.010 Applicability.

This chapter shall establish the council procedure regulations of the city. It shall apply to all regular, adjourned regular and special meetings of the city council, and in addition, Sections 2.12.020, 2.12.030, 2.12.050 and 2.12.070 through 2.12.160, inclusive, shall apply to all city boards, commissions and agencies.

Reference to "presiding officer," "council," "councilmember," and "city clerk," where appearing in this chapter, shall respectively mean "chairperson," "planning commission," "commissioner" and "secretary of the planning commission," when applicable to planning commission meetings, etc. and as appropriate for other boards, commissions and agencies. (Ord. 4292 § 3 (part), 1991)

2.12.020 Meeting defined.

A. The term "meeting" means the gathering together of three or more members of the city council or a majority of the total members of any board, commission, or agency, each member within normal hearing distance of the other, at the time and place established by ordinance, resolution or motion, for regular or adjourned regular meetings or at such other time and place as authorized by law for special meetings, for the purpose of acting in their official capacity as the legislative body of the city in the case of the city council, and in their official capacity as a board, agency or commission, to make decisions, commitments or promises by a majority of the council, board, commission, or agency, or by actual vote by a majority of the vote of the council or a board, commission or agency when sitting as a body or entity upon a motion, proposal, resolution, order or ordinance.

B. Unless otherwise authorized by law to be held in closed session, all such meetings shall be open and public; provided, however, the city council may hold closed sessions from which the public may be excluded for the consideration of such matters as are specifically provided by the laws of the state.

C. A majority of the total members of the council shall constitute a quorum and shall be sufficient to transact regular business. Such a quorum shall be required notwithstanding absences or vacancies.

D. Councilmembers are expected to attend all meetings of the city council. If a councilmember fails to attend without permission all regular, adjourned regular or special meetings for sixty days consecutively from the last meeting attended, that office becomes vacant and shall be filled as any other vacancy.

E. The foregoing shall not prevent less than a quorum, otherwise gathered at the time and place and for the purpose of conducting a meeting, from adjourning from time to time in accord with the law until a quorum is present.

F. The definition of a meeting in addition to that set forth above, shall include all legislative or final appellate court definitions.

G. A councilmember present but abstaining shall be counted for purposes of constituting a quorum.

H. A councilmember disqualified from voting by law shall not be counted for purposes of constituting a quorum. (Ord. 4292 § 3 (part), 1991)

2.12.030 Effect of nonobservance of chapter.

Failure to observe the rules set forth in this chapter shall not invalidate any action taken which is otherwise lawful but defective only for failure to follow the procedure outlined in this chapter. (Ord. 4292 § 3 (part), 1991)

2.12.040 Time and place of meetings.

A. The city council shall hold regular meetings in the council chambers of the city hall, 200 East Main Street, El Cajon, California 92020, or at such other place as may be determined by the council. The times and dates of regular City council meetings shall be determined by city council resolutions.

B. When the day for any meeting falls on a holiday as provided in this chapter, no meeting shall be held on such holiday, but a meeting may be held at the same hour on the following business day that is not a holiday.

C. Special meetings may be called at any time by the mayor or by a majority of the members of the city council by delivering personally or by mail written notice to each councilmember and to each local newspaper of general circulation, radio or television station requesting notice at least twenty-four hours before the time of such meeting as specified in the notice and by posting, at least twenty-four hours prior to the special meeting in a location that is freely accessible to members of the public.

1. The call and notice shall specify the time and place of the special meeting and the business to be transacted.
2. No other business shall be considered at such meetings.
3. Such written notice may be dispensed with as to any councilmember who, at or prior to the time the meeting convenes, files with the city clerk a written waiver of notice.

4. Such waiver may be given by telegram.
5. Such written notice may also be dispensed with as to any councilmember who is actually present at the meeting at the time it convenes. (Ord. 4292 § 3 (part), 1991)(Ord. No. 4525, Amended, 10/22/96; Ord. No. 4557, Amended, 12/9/97)

2.12.050 Adjournment.

A. Any meeting may either be terminated or continued to another time, place or date by adjournment, regardless of whether or not all matters on the agenda or under discussion have been completed, acted on or concluded. Notwithstanding the above, no meeting shall be terminated before closing all public hearings which were notified for such meeting, without first continuing such public hearings to another time, place and date. Subject to the above, a motion to adjourn shall always be in order and decided without debate.

B. No meeting shall be adjourned to a date beyond the next regular meeting. Where a meeting is continued to a future date, if either the time or place, or either of them is not stated in the order of adjournment, it shall be deemed to be at the hour and place specified for meetings of the council.

C. If less than a quorum of councilmembers appear at a meeting, any member or, if all members are absent, the city clerk, shall adjourn the meeting to a stated day and hour. The clerk shall cause a written notice of the adjournment to be given in the same manner as provided for special meetings, unless such notice is waived by a member of council.

D. Once adjourned, the meeting may not be reconvened. (Ord. 4292 § 3 (part), 1991)

2.12.060 Agenda--Order of business.

A. All reports, communications, ordinances, contract documents or other matters, including basic fact and matters pertinent thereto, to be submitted to the council, shall be delivered to the city clerk not later than three p.m. on the Wednesday preceding the meeting. The city clerk shall thereafter arrange a list of such matters according to the order of business, and furnish each member of the council with a copy of the list not later than five p.m. on the Friday preceding the regular or adjourned regular meeting. Whenever feasible, each item on the agenda shall contain a staff recommendation and the specific action requested to be taken by the council. All material pertaining to and accompanying the agenda shall be made available to the public when made available to the city council.

B. No matters other than those listed on the agenda shall be finally acted upon by the council provided; however, that matters not on the agenda may be submitted for council consideration and action pursuant to state law or under any of the following conditions:

1. Upon a determination by a majority vote of council that an emergency situation exists, as defined in Government Code Section 54956.5;
2. Upon a determination by a two-thirds vote of council, or if less than two-thirds of the members are present, a unanimous vote of those members present, that the need to take action arose subsequent to the agenda being posted; and
3. The item was posted for a prior meeting of the council occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

C. The business of the council shall, except upon an affirmative vote of the city council or a determination by the mayor, city manager or city clerk, be taken up for consideration and disposition at a four p.m. meeting.

D. If there are public hearing matters presented to the city council, the meeting may, except upon an affirmative vote of the city council or a determination by the mayor, city manager or city clerk, be adjourned to seven p.m., at which time the council shall take up said matters.

The regular order of business may be changed or suspended for any purpose at any particular meeting by the presiding officer with the consent of a majority of the councilmembers present. (Ord. 4292 § 3 (part), 1991)(Ord. No. 4525, Amended, 10/22/96)

2.12.070 Minutes.

A. The minutes shall consist of a clear and concise statement of each and every council action, including the motions made and the vote thereon. The city council shall determine the scope and format for all minutes including city boards, commissions and agencies. The city clerk shall have exclusive responsibility for preparation of the minutes.

B. Minutes may be approved without reading if the city clerk has previously furnished each councilmember with a copy.

C. Records of each closed session of the city council shall be kept as required by state law. (Ord. 4292 § 3 (part), 1991)

2.12.080 Voting.

A. When any motion is in order for the question, a vote thereon shall be taken by voice, roll call, or voting device and entered in full upon the record.

B. A member's vote may be changed only upon a timely request to do so immediately following the announcement of the vote by the city clerk and prior to the time that the next item in the order of business is taken up.

C. Ordinances, resolutions and other matters submitted to the council must be adopted by a majority vote of the total membership of the council unless a greater number of votes may be required by law. The word "majority" means three votes for the city council and all city boards, commissions and agencies with a total of five members. In instances where a majority vote cannot be obtained and no additional action is taken and one or more members of the council is absent, such matter shall automatically be added to a future agenda of the council to be considered at least once by the council with all members present.

D. An abstention (as opposed to a disqualification) shall constitute an affirmative vote, so long as there is at least one additional affirmative vote other than an abstention. (Ord. 4292 § 3 (part), 1991)

2.12.090 Presiding officer.

A. The mayor shall be the presiding officer at all meetings of the city council. In the absence of the mayor and the mayor pro tempore, the city clerk shall call the council to order, whereupon a temporary presiding officer shall be elected by the councilmembers present to serve until the arrival of the mayor or mayor pro tempore or until adjournment.

B. The presiding officer shall sign all ordinances, resolutions and other documents necessitating such signature. The presiding officer shall preserve strict order and decorum at all regular, adjourned regular and special meetings of the council and shall state, or call upon the clerk to state, every question before the council, call for the vote, and announce the decision of the council on all subjects. The presiding officer shall decide all questions of order; subject, however, to an appeal to the council by any councilmember, in which event a majority vote of the council shall govern and conclusively determine such question of order. The presiding officer shall have and exercise such other powers and duties as are authorized by law.

C. The presiding officer shall have power, authority and discretion, without a vote of the council to:

1. Set time limits on council discussion on any matter;

2. Set time limits on any communications from members of the public to the council; in no event shall any individual public communication exceed three minutes without the consent of the mayor;
3. Declare the opening of public hearings;
4. Rule any motion on a subject not on the agenda as being out of order, in which case the motion shall thereafter be void;
5. Continue or postpone any matter until the next regular, adjourned regular or special meeting whenever the city attorney advises that there is a question as to the validity or constitutionality of the particular proposed course of action which is the subject matter of such motion;
6. May require any witness testifying to facts at any public hearing to be sworn before proceeding further with any such testimony;
7. Rule any speaker out of order, terminate any communication with the council from a member of the public and/or declare a recess in order to establish order at any meeting. The presiding officer may move, second and debate from the chair, subject only to such limitations of debate as are by these rules imposed upon all members. The presiding officer shall not be deprived of any of the rights and privileges of a councilmember by reason of being mayor or acting as the presiding officer. (Ord. 4292 § 3 (part), 1991)

2.12.100 Public hearings.

A. The term "public hearing" includes all public hearings having specific notice requirements by state law or city ordinance, including employee disciplinary proceedings and proceedings for the revocation, suspension, or reinstatement of permits, licenses, and franchises.

B. Public hearings shall be conducted in the following order:

1. Staff Reports;
2. Hearing opened by mayor;
3. Public testimony;
4. Close hearing by majority vote;
5. Discussion among city council; and

6. Action by majority vote.

C. On the date and at the time and place designated in the notice, the council shall afford any interested person or his or her authorized representative, or both, the opportunity to present witnesses, to present documentary evidence, to present statements, arguments or contentions orally and/or in writing, subject to the rules on addressing the council and rules stated in this chapter.

D. All oral statements, documents, exhibits, communications, petitions, maps, or displays submitted at the hearing may be considered by the council as evidence and in such event retained as part of the record. Whenever practicable, a written staff report shall be prepared and presented as part of the staff presentation. Evidence shall not be taken outside the council chambers and shall not be considered by the council, except when, during the hearing, the meeting is adjourned to a particular date, place and time for the purpose of taking visual or demonstrative evidence.

E. In the event a councilmember is absent at a meeting where a hearing is held which has been continued to a subsequent meeting, such member may participate in the matter at such subsequent meeting if otherwise qualified upon stating for the minutes that such councilmember has reviewed the written minutes of the prior portions of the hearing and is prepared to participate.

F. Any hearing being held or noticed or ordered to be held by the council may, by minute action, be continued to any subsequent regular or adjourned regular meeting of the council in compliance with the laws of the state. (Ord. 4292 § 3 (part), 1991)

2.12.110 Speaking rights of members.

A. Every councilmember desiring to speak shall address the chair, and upon recognition by the presiding officer shall confine comments to the question under debate, avoiding personalities and indecorous language.

B. A member, once recognized, shall not be interrupted when speaking unless it be to call such member to order, or as herein otherwise provided. If called to order while speaking, a member shall cease speaking until the question of order be determined, and, if in order, shall be permitted to proceed.

C. The councilmember moving the adoption of an ordinance, resolution or council action shall have the privilege of closing the debate. (Ord. 4292 § 3 (part), 1991)

2.12.120 Motions.

A. No motion may be debated nor voted upon unless it has received a second. Only one motion may be before the council at any time.

B. A motion to reconsider any action by the council may only be made at the meeting at which such action was taken. Such motion may be made at any time no other motion is pending, shall have precedence over all other motions, and shall be subject to debate. If the action to be reconsidered was a public hearing item as provided in Section 2.12.100, it must be renoticed as originally required and considered at a future meeting unless a finding is made by a majority vote that all of the public interested in the matter to be reconsidered who were present are still present in the council chambers. (Any member may make or remake the same or any other motion at a subsequent meeting of the council, except when the subject matter of a motion had previously been tabled)

C. A motion to table takes precedence over all other motions and shall be subject to debate. When a motion to table is passed, the matter shall not again be considered by the council unless such matter is taken from the table by a majority vote of the council.

D. A matter once tabled shall not be placed on the agenda nor discussed unless a member who had voted to table such matter requests the council to have such matter taken from the table, or requests the clerk to place such matter on the agenda for the purposes of determining whether or not such matter shall be taken from the table. (Ord. 4292 § 3 (part), 1991)

2.12.130 Record of debate and remarks of councilmembers.

Any member shall have the right to have the reasons for such member's dissent from, or such member's protest against, any action of the council entered on the minutes. (Ord. 4292 § 3 (part), 1991)

2.12.140 Rules of order.

A. Except as otherwise provided in this chapter, proceedings of the council shall be governed by common sense and good taste. In the event of a dispute concerning procedural matters not specifically covered in this chapter, the majority vote of the council shall prevail.

B. Rules adopted to expedite the transaction of business of the council in an orderly fashion are deemed to be procedural only, and the failure to strictly observe such rules shall not affect the jurisdiction of the council or invalidate any action taken at a meeting that is otherwise held in conformity with the law. (Ord. 4292 § 3 (part), 1991)

2.12.150 Addressing the council.

A. Any person desiring to address the council shall first secure the permission of the presiding officer to do so. In addition, but unless the presiding officer rules otherwise, any person shall have the right to address the council upon obtaining recognition by the presiding officer to speak subject to the following:

1. Public Hearings. Interested persons or their authorized representatives may address the council orally or in writing relating to matters which are then subject to a public hearing pursuant to Section 2.12.100.
2. Non-"Hearing" Matters. Interested parties or their authorized representatives may address the council with regard to matters with which they are concerned and are then the subject of council discussion. When copies of such communications are furnished each councilmember present, such written communications shall not be read aloud at the meeting unless so ordered by a majority vote of the council. Written communications from the administrative staff shall not be read aloud unless requested by any councilmember.
3. Oral Communications. Any person may address the council under oral communications with regard to any matter with which they are concerned. The council shall not discuss any matter not on the agenda pursuant to state law and this chapter nor take any action except to refer such matter to a future agenda.
4. Addressing the Council. Each person addressing the council shall speak into the microphone at the speaker's podium, shall state his or her name and address in an audible tone of voice for the record, and unless further time is granted by the presiding officer, shall limit the remarks to three minutes. All remarks shall be addressed to the council as a body, and not to any member thereof. No person other than the council and the person having the floor shall be permitted to enter into any discussion, either directly or through a member of the council, without the permission of the presiding officer.
5. Limitation to Agenda Item. Except under oral communications, the presiding officer shall not permit any communication, written or oral, to be made or submitted unless such communication addresses the agenda item then under discussion.
6. Consent Required. No person shall address or question a councilmember, the staff or any other person without the prior consent of the presiding officer.
7. Permission to Speak. After a motion is made by a councilmember, no person shall address the council without first securing the permission of the council to do so.
8. Anonymous Communications. Anonymous communications shall

not be considered nor placed on the agenda.

9. **Group Communications.** When any identifiable group of persons, as opposed to the general public at large, wishes to address the council on the same agenda item, the presiding officer shall have the discretion to request that a spokesperson be chosen by said group to address the council. If additional issues are to be presented at the hearing by any other member of such group, the presiding officer may limit the number of persons and the time periods to address the council, so as to avoid unnecessary repetition of issues before the council.
10. **Additional Opportunity to Address the Council.** Subject to the needs of the council to expeditiously perform its business and to avoid repetitive testimony, any person may be permitted by the mayor to address the council more than once on any particular item. No person shall be allowed to address the council more than once on an item until all persons present and wishing to address the council have been provided the opportunity to do so. The mayor may limit the time period allowed any person to address the council on an item more than one time, and shall not permit repetitive testimony from any person. (Ord. 4292 § 3 (part), 1991)

2.12.160 Rules of decorum--Enforcement.

A. While the council is in session, all persons shall preserve the order and decorum of the session; and a member shall neither by conversation or otherwise delay or interrupt the proceedings or the peace of the council nor disturb any member while speaking, or refuse to obey the orders of the council or its presiding officer, except as otherwise herein provided.

B. Any person making personal, impertinent or slanderous remarks, or who becomes boisterous while addressing the council, which conduct delays or interrupts the due course of the meeting, shall be forthwith barred from further audience before that session of the council by the presiding officer, unless permission to continue is granted by majority vote of the council.

C. While the council is in session, any person or councilmember who acts in a disorderly, contemptuous or insolent manner towards the council or any councilmember thereof, or who becomes boisterous while addressing the council or any councilmember thereof, which conduct delays or interrupts the due course of the meeting, or any member of the public in attendance who fails, on demand of the presiding officer, to comply with any order of the presiding officer made in accord with the authority of this chapter, is subject to the criminal penalties of this code.

D. No person, except city officials and their representatives, shall be permitted within the area beyond the rostrum which is reserved for staff and council without the express consent of the council.

E. The city manager may designate such appropriate person or persons to act as sergeant at arms to carry out all orders and instructions given by the presiding officer for the purposes of maintaining order and decorum at the council meeting. Upon instructions of the presiding officer, it shall be the duty of the sergeant at arms, or any of them present, to place any person who violates the order and decorum of the meeting under arrest, and cause such person to be prosecuted under provisions of this code, the complaint to be signed by the presiding officer or other appropriate person present. (Ord. 4602 § 3, 1999; Ord. 4292 § 3 (part), 1991)

2.12.170 Attendance may be compelled by subpoena.

Council action by less than a quorum of the council may adjourn from time to time and may compel attendance of absent members by the issuance of a subpoena signed by the member of council presiding over the councilmembers constituting less than a majority. A subpoena shall issue only upon a majority vote of the members convening for the purpose of issuing such subpoena. Any member so subpoenaed shall obey said subpoena and shall participate in good faith in the meeting to which such member is subpoenaed in order that the essential business of the council may be conducted. Any member who fails to obey said subpoena or fails to participate in such meeting, shall be subject to the criminal penalties provided for breach of any provision of this chapter. (Ord. 4292 § 3 (part), 1991)