

RESOLUTION NO. 2021-043

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
ESTABLISHING A POLICY FOR CENSURE OF CITY COUNCILMEMBERS**

WHEREAS, the City Council has authority to issue a formal censure against an individual Councilmember, including the Vice-Mayor and the Mayor; and

WHEREAS, the City Council wishes to adopt a policy and procedure for censuring a Councilmember.

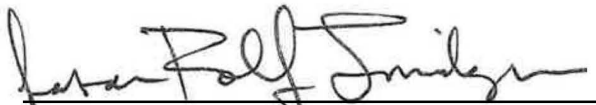
NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Elk Grove hereby adopts the City Councilmember Censure Policy and Procedure, attached hereto as Exhibit A and incorporated herein by reference.

PASSED AND ADOPTED by the City Council of the City of Elk Grove this 27th day of January 2021



BOBBIE SINGH-ALLEN, MAYOR of the
CITY OF ELK GROVE

ATTEST:



JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:



JONATHAN P. HOBBS,
CITY ATTORNEY

EXHIBIT A



Policy and Procedure for Censure of City Councilmembers

PURPOSE

The purpose of this Policy and Procedure for Censure of City Councilmembers ("Policy") is to establish a process for City Councilmembers to seek a censure determination as to another City Councilmember of the City of Elk Grove ("City"). For purposes of this Policy, the term "Councilmember" includes each individual Councilmember, the Vice-Mayor, and the Mayor of the City.

A censure is a formal determination by the City Council that another City Councilmember has violated a law, regulation, City policy, the City Code of Ethics, or has engaged in other misconduct while serving as a City of Elk Grove Councilmember. A censure shall be considered an expression of disapproval by the City Council, but it shall carry no additional penalty or fine imposed by the City Council. In lieu of or in addition to censure, the City Council shall retain the right to refer any matter or alleged misconduct to appropriate regulatory or enforcement agency and/or to take any other action otherwise authorized by law.

CENSURE PROCESS

1. Initiating a Censure Request.

Any two City Councilmembers may initiate a censure process by jointly submitting a censure request to the City Clerk. The censure request shall be in writing, specify the name of the Councilmember sought to be censured, and specify the alleged misconduct for which censure is sought.

Within ten (10) days of receipt of the censure request, the City Clerk shall notify the Councilmember who is the subject of the requested censure, and the City Clerk shall provide that Councilmember with a copy of the written censure request. The City Clerk, in consultation with the City Manager and City Attorney, shall thereafter place the censure request on the City Council agenda for initial consideration of the censure request by the City Council at a City Council meeting occurring no later than ninety (90) days after receipt of the censure request. The initial consideration of the censure may be heard at either a regular or special City Council meeting.

2. Initial City Council Consideration of Censure Request.

Subject to the provisions set forth below in this section 2, at the initial City Council meeting to consider the censure request, the City Council may do any of the following:

- a. Take no action, in which case the censure proceedings are deemed terminated.
- b. By majority vote of the membership of the City Council, terminate the censure proceedings.
- c. By majority vote of the membership of the City Council, approve the issuance of a censure.
- d. By majority vote of the membership of the City Council, direct that the alleged violation be further investigated.
- e. By majority vote of the membership of the City Council, continue the matter to a future City Council meeting.

The Councilmember who is the subject of the censure request shall not cast a vote as to categories b, c, d, or e, above.

Should the Councilmember who is the subject of the censure request additional time to prepare a response to a censure request or request an investigation of the matter, the City Council shall not approve the issuance of a censure at the initial City Council meeting. Subject to the foregoing, should the City Council approve the issuance of the censure at the initial City Council meeting, the City Council shall specify on the record at the City Council meeting and/or in a resolution (approved at the City Council meeting or a future Council meeting) the conduct for which the Councilmember is being censured. Any vote to approve or decline the issuance of a censure of a Councilmember shall be final and shall not be subject to any further administrative appeal. Notwithstanding the absence of an appeal right, the vote to approve the issuance of a censure may be reconsidered by a majority vote of the City Councilmembers.

Should the City Council, by majority vote of its membership, direct that the alleged violation be further investigated, the City Council shall appoint an ad hoc committee of two Councilmembers to further investigate the alleged violation and return a report and recommendation to the City Council. The Councilmember who is the subject of the censure complaint shall not be a member of the ad hoc committee.

Nothing herein shall limit the rights and authority of the City Council to act or take any action otherwise authorized by law.

3. Investigation of Censure Request

Upon establishment of the ad hoc committee, as specified in section 2 above, the ad hoc committee shall investigate the alleged violations contained in the censure request. The ad hoc committee may interview witnesses and review documents relevant to the censure request. The ad hoc committee may seek the reasonable assistance of City staff, including the City Attorney, City Manager, and City Clerk, and may contract with

consultants and/or investigators to assist the ad hoc committee in its investigation, provided that such contracts are subject to approval of the City Manager and City Attorney, and the amount of the contract shall not exceed the contracting authority of the City Manager without City Council approval. The ad hoc committee shall endeavor to complete its investigation within ninety (90) days of the establishment of the ad hoc committee, subject to reasonable extensions of time as the specific facts, circumstances, and investigation so warrants.

4. Report, Recommendation, and Final Action.

Upon completion of its investigation, as specified in section 3 above, the ad hoc committee shall so notify the City Clerk and request that the consideration of the censure be agendized on a City Council agenda. The consideration of the censure may be heard at either a regular or special City Council meeting. With the assistance of appropriate City staff and consultants or investigators retained by the ad hoc committee, the ad hoc committee shall prepare a written report and recommendation to the City Council concerning the censure request.

Before taking any action on the censure request at the City Council meeting, the City Council shall review the report and recommendation of the ad hoc committee, review any additional documents submitted relevant to the censure, receive public comment, and provide the subject of the proposed censure an opportunity to respond to the allegations, materials, and comments. Following consideration of these matters, the City Council may do any of the following:

- a. Take no action, in which case the censure proceedings are deemed terminated.
- b. By majority vote of the membership of the City Council, decline to issue a censure.
- c. By majority vote of the membership of the City Council, approve the issuance of a censure.
- d. By majority vote of the membership of the City Council, continue the matter to a future City Council meeting.

The Councilmember who is the subject of the censure request shall not cast a vote as to categories b, c, or d, above.

Should the City Council approve the issuance of the censure, the City Council shall specify on the record at the City Council meeting and/or in a resolution (approved at the City Council meeting or a future Council meeting) the conduct for which the Councilmember is being censured. Any vote to approve or decline the issuance of a censure of a Councilmember shall be final and shall not be subject to any further administrative appeal. Notwithstanding the absence of an appeal right, the vote to approve the issuance of a censure may be reconsidered by a majority vote of the City Councilmembers.

Nothing herein shall limit the rights and authority of the City Council to act or take any action otherwise authorized by law.

CERTIFICATION
ELK GROVE CITY COUNCIL RESOLUTION NO. 2021-043

STATE OF CALIFORNIA)
COUNTY OF SACRAMENTO) ss
CITY OF ELK GROVE)

I, Jason Lindgren, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing resolution was duly introduced, approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on January 27, 2021 by the following vote:

AYES: **COUNCILMEMBERS:** *Singh-Allen, Nguyen, Hume, Spease, Suen*

NOES: **COUNCILMEMBERS:** *None*

ABSTAIN: **COUNCILMEMBERS:** *None*

ABSENT: **COUNCILMEMBERS:** *None*



Jason Lindgren, City Clerk
City of Elk Grove, California