



EXHIBIT A

CITY OF GARDEN GROVE

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MANUAL OF PROCEDURE

CITY COUNCIL MEETINGS

2007 Edition

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A. MEETINGS

A-1. REGULAR MEETINGS

The City Council shall hold regular meetings on the second and fourth Tuesdays of each month at the hour of 7:00 p.m., or 6:15 p.m. if a closed session is scheduled, in the Council Chamber of the Community Meeting Center, 11300 Stanford Avenue, Garden Grove; and on the fifth Tuesday of the month for a study session, if needed, in the Founders Room of the Community Meeting Center, or at such other time or location within the City limits to which said meeting may be adjourned. If by reason of fire, flood or other emergency, it shall be unsafe to meet in the Community Meeting Center, the meetings may be held for the duration of the emergency at such other place as is designated by the Mayor or by three members of the City Council. When the day of any regular meeting falls on a legal holiday, as provided in the Municipal Code, no meeting shall be held on such holiday, but a regular meeting shall be held at the same hour on the following business day.

A-2. ADJOURNED MEETINGS

Any regular or adjourned regular meeting may be adjourned to a time, place and date specified in the order of adjournment, but not beyond the next regular meeting. If no time is stated in the order of adjournment, it shall be the same time as for regular meetings. Once adjourned, the meeting may not be reconvened. An adjourned regular meeting is a regular meeting for all purposes.

A-3. SPECIAL MEETINGS

Special meetings may be called at any time by the Mayor, or by three members of the City Council, by delivering personally or by mail written notice to each Council Member, and to each local newspaper of general circulation, radio or television station requesting notice in writing. Such notice must be both posted and delivered personally, by Fax, or by mail at least twenty-four hours before the time of such meeting as specified in the

notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meetings. No ordinances, other than urgency ordinances, may be adopted nor may resolutions or orders for payment of money be made. Resolutions, urgency ordinances or orders for payment of money may only be approved at a special meeting if the notice of the particular meeting specifies the business to be transacted.

A-4. MEETINGS TO BE PUBLIC

All regular, adjourned, and special meetings of the City Council shall be open and public, provided however, that the City Council may hold executive (closed) sessions from which the public may be excluded for the consideration of the following subjects:

(a) Personnel Matters

To consider the appointment, employment, or dismissal of a public officer or employee, or to hear complaints or charges brought against such officer or employee by another public officer, person, or employee, unless such officer or employee requests a public hearing. The Council may exclude from any such executive session during the examination of a witness any or all other witnesses in the matter being investigated.

(b) Attorney-Client Matters

To consider proposed or pending litigation to which the City is a party.

(c) Labor Negotiations

To consider and discuss with designated representatives and employee organizations, matters relative to labor negotiations including, but not limited to, such items as salaries, salary schedules and fringe benefits.

- (d) To consider and deal with such other matters as may be authorized by law.
- (e) The City Council may request City officers or employees to be present at any executive session.

A-5. ATTENDANCE

Council Members are expected to attend all meetings of the City Council. If a Council Member is absent without Council permission from all regular City Council meetings for 60 days consecutively from the last regular meeting attended, the office becomes vacant and shall be filled as any other vacancy.

A-6. QUORUM

The Council consists of five members - one of which is the Mayor. Three members of the Council shall constitute a quorum and shall be sufficient to transact regular business. If less than three Council Members appear at a regular meeting, any member, or the City Clerk if all members are absent, may adjourn the meeting to a stated day and hour. The Clerk shall cause a written notice of the adjournment to be delivered personally to each Council Member at least three hours before the adjourned meeting.

B. AGENDA

B-1. AGENDA, PREPARATION OF

An agenda shall be prepared for each regular meeting containing the specific items of business to be transacted and the order thereof. Items of business may be placed on the agenda by the City Manager, his representative, the City Attorney or by a majority vote of the City Council. Individual City Council Members may place items for discussion on the agenda under "Matters from City Council Members". Agenda items shall be delivered to the City Clerk. The Clerk shall thereafter prepare the agenda under the direction of the City Manager. The agenda, together with all reports pertaining thereto, shall be delivered to the Council Members no later than the Thursday

preceding the regular meeting. The agenda shall be made available to the public as soon as practicable. No matters other than those listed on the agenda shall be finally acted upon by the Council.

B-2. ORDER OF BUSINESS

At the time set for each regular meeting, the Council Members, City Clerk, City Manager, City Attorney and such department heads as have been requested to be present, shall take their regular places in the Council Chamber. The Mayor shall call the meeting to order and the business of the Council shall be taken up for consideration and disposition in the order set forth in Section B-3, except that with the consent of the Council Members present, the Mayor may request that items be taken out of order.

B-3. AGENDA, CONTENTS

The Agenda shall contain the title headings and shall be conducted in the order and manner as set forth below:

(a) ROLL CALL

The City Clerk shall call the roll of the Council Members and the names of those present and absent shall be entered in the minutes.

(b) CLOSED SESSION

All Closed Session items shall be listed on the Agenda and considered pursuant to Sections 54950 et seq. of the California Government Code.

(c) INVOCATION

An invocation will be provided at each regular meeting.

(d) PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

(e) PRESENTATIONS

The City Council shall from time to time recognize individuals and organizations and present awards or Certificates of Appreciation.



(f) ORAL COMMUNICATIONS - PUBLIC

The Council shall consider oral communications from the audience simultaneously with the Agency for Community Development and the Garden Grove Sanitary District.

(g) WRITTEN COMMUNICATIONS

The Council shall consider written communications from the public and from other agencies. The Agenda shall list written communications requiring Council action, including a copy or a brief summary of the request.

(h) CONSENT ITEMS

Some of the typical consent items are: proclamations; claims; City Council minutes; bond exonerations; approval of plans and specifications and authorization to advertise for bids; approval of final progress payments, time extensions and acceptance of contracts; bid awards for amounts less than \$250,000; approval of certain agreements; report of City accounts; conference attendance (as budgeted); personnel transactions such as leave of absence, employment recommendations, reclassifications; some routine resolutions; waiver of full reading of Ordinances listed for adoption; and any other item which may be considered routine or of a follow-up nature.

(i) PUBLIC HEARINGS

The Council shall conduct all public hearings in accordance with the provisions of Section J-1 through J-5.

(j) COMMISSION/COMMITTEE MATTERS

The Council shall consider matters submitted by the Commissions and Committees of the City.

(k) ITEMS FOR CONSIDERATION

This section is for a wide variety of matters such as consideration of ordinances for introduction, resolutions, staff reports and recommendations.

(l) ORDINANCES PRESENTED FOR SECOND READING AND ADOPTION

Ordinances are adopted through a two-step process. First, an ordinance is introduced by the adoption of a motion. Second, the ordinance is again considered at a subsequent meeting for final adoption. It takes three affirmative votes to pass an ordinance.

(m) MATTERS FROM THE MAYOR, CITY COUNCIL MEMBERS AND CITY MANAGER

The Council shall consider all oral and written communications from Council Members and City Manager.

(n) ADJOURNMENT

The meeting shall be adjourned after a motion to adjourn has been made and carried.

C. PRESIDING OFFICER

C-1. MAYOR TO PRESIDE

The Mayor shall be the Presiding Officer at all meetings of the City Council. In the absence of the Mayor, the Mayor Pro Tempore shall preside. In the absence of both the Mayor and Mayor Pro Tempore, the City Manager shall call the Council to order, whereupon a temporary Presiding Officer shall be elected by the Council Members present to serve until the arrival of the Mayor or Mayor Pro Tempore, or until adjournment.

C-2. POWERS AND DUTIES OF PRESIDING OFFICER

(a) Participation

The Presiding Officer may move, second, debate, and vote from the Chair. He/she shall not be deprived of any of the rights and privileges of a Council Member by reason of his/her acting as Presiding Officer.

(b) Questions to be Stated

The Presiding Officer, or such member of the City staff as he/she may designate, may verbally restate each question immediately prior to calling for the vote. Following the vote the City Clerk shall announce whether the question carried or was defeated. The Presiding Officer, at his/her discretion, may explain the effect of a vote to the audience, or he/she may direct a member of the City staff to do so, before proceeding to the next item of business.

(c) Maintaining Order and Decorum

The Presiding Officer shall be responsible for the maintenance of order and decorum at all meetings. Any decision or ruling of the Mayor may be appealed by request of any Council Member. The Mayor shall call for roll call to see if the Chair shall be upheld. If the roll call loses, the Mayor's decision or ruling is reversed.

(d) Signing of Documents

The Presiding Officer shall sign all ordinances, resolutions, and other documents necessitating his/her signature which were adopted in his/her presence, unless he/she is unavailable, in which case an alternate Presiding Officer may sign such documents. Additionally, certain documents are designated to be signed by the City Manager or his/her designee.

(e) Appointment of Ad Hoc Committees

The Mayor may, subject to the approval of the Council, appoint such ad hoc committees of Council Members, City staff and private citizens, or a combination thereof as he/she deems necessary and expedient to assist and advise the Council in its work.

D. ADDRESSING THE COUNCIL

D-1. WRITTEN CORRESPONDENCE

The City Manager or his/her designee is authorized to receive and open all mail addressed to the City Council, and he/she shall give it immediate attention so that all administrative business referred to in the communications, not necessarily requiring Council action, may be disposed of between Council meetings. Any communication requiring Council action shall be placed upon the agenda, sometimes with a report and recommendation by the City staff. All correspondence requiring Council action shall be answered or acknowledged as soon as practicable.

D-2. RIGHT TO ADDRESS COUNCIL

Subject to the provisions of Section D-3, D-4, and D-5, every taxpayer or resident of the City shall have the absolute right to address the Council during Oral Communications on any consideration of items of business within the jurisdiction of the City Council other than public hearings, which shall be heard at the appointed time for said public hearing.

PUBLIC HEARINGS

Interested persons or their authorized representatives may address the Council, while a matter is open to public hearing, to provide remarks or ask questions relevant to the matter under consideration.

## ORAL COMMUNICATIONS

Taxpayers or residents of the City, or their authorized representatives, may address the Council by Oral Communications on any matter concerning municipal business over which the Council has jurisdiction, or which is listed on the agenda, except public hearing items.

### D-3. MANNER OF ADDRESSING COUNCIL

Any person desiring to address the Council may be requested to fill out a card, present it to the City Clerk, and wait to be recognized by the Presiding Officer. After being recognized, they shall approach the podium, state their name for the record, and proceed to address the Council. All remarks and questions shall be addressed to the Council as a whole and not to any individual member. No question shall be asked of a Council Member or a member of the City staff without first obtaining permission of the Presiding Officer.

### D-4. TIME LIMITATION

Every person addressing the Council will be requested to limit their address to five (5) minutes or as granted by the City Council. When any group of persons wishes to address the Council on the same subject matter, it shall be proper for the Presiding Officer to request that a spokesperson be chosen to represent the group, so as to avoid unnecessary repetition. At the Council's discretion, a limit on the total amount of time for public comments during oral communications and/or a further limit on the time allotted to each speaker during oral communications may be set in order to facilitate consideration of a topic or to allow completion of a meeting with a lengthy agenda within a reasonable time.

### D-5. IMPROPER REMARKS

Any person making impertinent, slanderous, or profane remarks or who becomes boisterous while addressing the Council shall be called to order by the Presiding Officer. If such conduct continues, the Presiding Officer may

order the person barred from further audience before the Council during that meeting.

E. DEBATE AND DECORUM

E-1. OBTAINING THE FLOOR

Every Council Member desiring to speak shall first address the Chair, gain recognition by the Presiding Officer, and limit himself/herself to the question under debate.

E-2. QUESTIONS TO STAFF

Every Council Member desiring to question the City staff shall, after recognition by the Presiding Officer, address his/her questions to the City Manager, the City Clerk, or the City Attorney. In the case of the City Manager, he/she shall either answer the inquiry himself/herself or to designate a member of the staff for that purpose.

E-3. INTERRUPTIONS

A Council Member, once recognized, shall not be interrupted when speaking unless called to order by the Presiding Officer, unless a point of order or personal privilege is raised by another Council Member, or unless the speaker chooses to yield to a question by another Council Member. If a Council Member, while speaking, is called to order, he/she shall cease speaking until the question of order is determined and, if determined to be in order, he/she may proceed. Members of the City staff, after recognition by the Presiding Officer, shall hold the floor until completion of their remarks or until recognition is withdrawn by the Presiding Officer.

E-4. POINTS OF ORDER

The Presiding Officer shall determine all points of order subject to the right of any Council Member to appeal to the Council. He/she may request an opinion of the City Attorney in making such determination. If an appeal is taken, the question shall be: Shall the decision of the Presiding Officer be

sustained? Council decision shall conclusively determine such questions of order.

E-5. POINT OF PERSONAL PRIVILEGE

The right of a Council Member to address the Council on a question of personal privilege shall be limited to cases in which his/her integrity, character, or motives are questioned, or where the welfare of the Council is concerned. A Council Member raising a point of personal privilege may interrupt another Council Member who has the floor subject only to the power of the Presiding Officer to call him/her out of order.

E-6. REMARKS OF COUNCIL MEMBERS AND SYNOPSIS OF DEBATE

Any Council Member shall have the right to have an abstract of his/her statement and/or a synopsis of the debate on any subject under consideration by the Council entered in the minutes. Such right shall be exercised by specific direction to the City Clerk at the Council meeting.

E-7. DECORUM AND ORDER, COUNCIL AND CITY STAFF

While the Council is in session, the Council Members and City staff shall preserve order and decorum. No member shall, by conversation or other delay, interrupt the proceedings or the peace of the Council, disturb any other member while speaking, or refuse to obey the directives of the Presiding Officer.

E-8. DECORUM AND ORDER, AUDIENCE

Public members attending Council meetings shall observe the same rules of order and decorum applicable to the Council and staff. Any person making impertinent or slanderous remarks or who becomes boisterous while addressing the Council or while attending the Council meeting may be removed from the room if the sergeant-at-arms is so directed by the Presiding Officer. Such person may be barred from further audience before the Council during the meeting. Unauthorized remarks from the audience,



stamping of feet, whistles, yells, and similar demonstrations shall not be permitted by the Presiding Officer, who may direct the sergeant-at-arms to remove such offenders from the room. Aggravated cases may be prosecuted on appropriate complaint signed by the Presiding Officer or a Council Member.

E-9. ENFORCEMENT OF DECORUM

The Chief of Police, or such member of the Police Department as he/she may designate, shall be sergeant-at-arms of the City Council and shall attend meetings when requested by the Presiding Officer, City Manager or City Council. He/she shall be available to respond to all meetings immediately upon call. He/she shall carry out all orders given by the Presiding Officer of the Council for the purpose of maintaining order and decorum at the Council meetings. Any Council Member may move to require the Presiding Officer to enforce the rules, and the affirmative vote of a majority of the Council Members present shall require him/her to do so.

E-10. FAILURE TO OBSERVE RULES OF ORDER

Rules adopted to expedite the transaction of the 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 law.

F. MOTIONS

F-1. PRESENTATION OF MOTIONS

A motion is the formal statement of a proposal or question to the Council for consideration and action. The Mayor and each Council Member have the right to present a motion.

F-2. SECOND REQUIRED

A motion by any Council Member shall not be considered by the Council and voted on unless it receives a second.



F-3. PRECEDENCE OF MOTIONS

When a main motion is before the Council, no motion shall be entertained except the following which shall have precedence, one over the other, in the following order:

- (a) Adjourn
- (b) Recess
- (c) Postpone temporarily or definitely (table)
- (d) Previous question
- (e) Limit or extend debate
- (f) Refer to committee or staff
- (g) Amend
- (h) Postpone indefinitely

The above order of preference is subject to the following restrictions:

- (a) A motion shall not be repeated without intervening business or discussion.
- (b) A motion shall not be in order when the previous question has been ordered.
- (c) A motion shall not be in order while a vote is being taken.

F-4. PARTICULAR MOTIONS, PURPOSE AND CRITERIA

The purpose and salient criteria of the above-listed motions is as follows:

(a) MOTION TO ADJOURN

Purpose. To terminate a meeting.

Debatable or Amendable. No, except a motion to adjourn to another time is debatable and amendable as to the time to which the meeting is to be adjourned.

(b) MOTION TO RECESS

Purpose. To permit an interlude in the meeting and to set a definite time for continuing the meeting.

Debatable or Amendable. Yes, but restricted as to time or duration of recess.

(c) MOTION TO POSTPONE TEMPORARILY

Purpose. To set aside, on a temporary basis, a pending main motion, provided that it may be taken up again for consideration during the current meeting or at the next regular meeting. It is also referred to as a motion to lay on the table.

Debatable or Amendable. It is debatable but not amendable.

(d) MOTION FOR PREVIOUS QUESTION

Purpose. To prevent or stop discussion on the pending question or questions and to bring such question or questions to vote immediately. If the motion fails, discussion shall continue. If the motion passes, a vote shall be taken on the pending motion or motions.

Debatable or Amendable. No.

(e) MOTION TO LIMIT OR EXTEND DEBATE

Purpose. To limit or determine the time that will be devoted to discussion of a pending motion or to extend or remove limitations already imposed on its discussion.

Debatable or Amendable. Not debatable; amendments are restricted to period of time of the proposed limit or extension.

(f) MOTION TO REFER TO COMMITTEE OR STAFF

Purpose. To refer the question before the Council to a committee or to the City staff for the purpose of investigating or studying the proposal and to make a report back to the Council. If the motion fails, discussion or vote on the question resumes.

Debatable or Amendable. Yes.

(g) AMEND

Purpose. To modify or change a motion that is being considered by the Council so that it will express more satisfactorily the will of the members. If the motion fails, discussion or vote on the main motion resumes. If the motion passes, then the main motion should be voted on as amended.

Debatable or Amendable. It is debatable unless applied to an undebatable main motion. It is amendable.

(h) POSTPONE INDEFINITELY

Purpose. To prevent further discussion and voting on the main motion. If the motion fails, discussion and voting on the main motion resumes. If it passes, the subject of main motion shall not be brought up again for the remainder of the meeting or the next regular meeting.

Debatable or Amendable. It is debatable but not amendable.

(I) MAIN MOTION

Purpose. The primary proposal or question before the Council for discussion and decision.

Debatable or Amendable. Yes.

G. VOTING

G-1. VOTING PROCEDURE

When any motion is in order for the question, a vote shall be taken by use of the electric voting board and entered in full upon the record. Motions may be passed by a simple majority of the members present at a properly quorumed meeting (2 votes are sufficient if only 3 members are present) except that the following matters shall always require three affirmative votes:

- (a) Adoption of ordinances
- (b) Resolutions
- (c) Orders for payment of money

Eminent domain actions require a 2/3rds vote of the Council (4 members of a 5-person Council) in order to insure that (1) there is conclusive evidence of public necessity for the proposed project, (2) there is conclusive evidence that the property is necessary, and (3) the proposed public improvement is planned and located in the manner most compatible with the greatest public good and least public injury.

G-2. CHANGE OF VOTE

A member may change his vote only if he/she makes 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.

G-3. FAILURE TO VOTE

Every member should vote unless disqualified for legal cause. Self-disqualification, without approval, which results in a tie vote shall be avoided as a means of obstructing Council action, but no Council Member shall be forced to vote. A Council Member who abstains without legal cause shall thereby consent that a majority of the quorum may act for him/her. Tie votes shall be lost motions and may be reconsidered.

G-4. CONFLICT OF INTEREST

Any Council Member who feels he/she may have a conflict of interest in any matter coming before the City Council shall disclose said interest and disqualify himself/herself from discussing or voting on the matter. Where it is not clear whether such interest is of a disqualifying nature, the Council Member shall state the facts of the matter to the City Attorney and request an opinion regarding a conflict prior to the meeting.

G-5. RECONSIDERATION AND RESCISSION OF PRIOR ACTION

After motion and vote by the Council, such action may be reconsidered or rescinded only in the following manner:

(a) RECONSIDERATION

A motion to set aside a vote (in essence, to reconsider) on a main motion shall always be in order at the same meeting. The motion to reconsider is amendable and debatable. Such motion can be made by any Council Member regardless of how he/she previously voted on the matter. If the motion to reconsider passes, its effect is to overrule and cancel the prior action.

(b) RESCISSION

A motion to rescind (repeal, cancel, nullify) prior Council action on a main motion shall be in order at any meeting of the Council. The effect of rescinding prior Council action shall operate prospectively only and not retroactively to the date of the original action. That is, it shall not operate to adversely affect intervening legal rights which create an estoppel situation.

(c) LOST MOTIONS

A lost motion is one that fails to receive the necessary number of votes to carry. Tie votes result in a lost motion. Lost motions may be renewed at any subsequent Council meeting. To revive a lost motion at the same meeting, the proper action is a motion to reconsider, as discussed above.

H. MINUTES

H-1. PREPARATION OF MINUTES

The City Clerk shall have exclusive responsibility for preparation of the minutes, and any directions for changes in the minutes shall be made only by actions of the City Council.

H-2. MINUTES OF HEARINGS

Whenever the Council acts in a quasi-judicial proceeding, such as hearings as defined in Section J-1, the minutes shall contain a synopsis of all evidence considered in the hearing, including summarized statements of persons addressing the Council.

H-3. READING OF MINUTES

Unless the reading of the minutes of a Council meeting is ordered by a majority vote of the Council, such minutes may be approved without reading if the City Clerk has previously furnished each Council Member with a copy.

I. ORDINANCES, RESOLUTIONS AND CONTRACTS

I-1. PREPARATION OF ORDINANCES, RESOLUTIONS AND CONTRACTS

(a) ORDINANCES

All ordinances shall be framed and approved by the City Attorney and shall be presented to the Council only when ordered by the Council, or City Manager, or prepared by the City Attorney on his/her own initiative.

(b) RESOLUTIONS

It shall be considered best practice to have all resolutions framed and approved by the City Attorney; however, resolutions may be prepared for submission by any individual, group or organization. In matters of urgency, a resolution may be presented verbally in motion form, together with instructions for written preparation for later execution. Urgency resolutions shall be avoided except when absolutely necessary and shall be avoided entirely when such resolutions are prohibited by law.

(c) CONTRACTS:

All contracts shall be prepared or approved by the City Attorney and shall be presented to Council only when ordered by the Council, City Manager, or City Attorney.

I-2. PRIOR APPROVAL BY ADMINISTRATIVE STAFF

All ordinances, resolutions and contract documents shall, before presentation to the Council, have been approved as to form by the City Attorney and shall have been examined and approved for administration by the City Manager or his/her authorized representative, where there are substantive matters of administration involved.

I-3. ENACTMENT OF ORDINANCES

(a) INTRODUCTION

Ordinances shall be introduced for first reading by motion. When ordinances, other than urgency ordinances, are altered after introduction, they shall be passed only at a regular or adjourned regular meeting held at least 5 days after alteration. Corrections or typographical or clerical errors are not considered alterations.

(b) PASSAGE

Ordinances shall be passed (second reading) by motion and by use of the electric voting board. Ordinances shall not be passed within five days of their introduction, nor at other than a regular or adjourned regular meeting.

(c) READING

Under the Consent agenda, staff requests that the City Council waive a full reading of the entirety of the ordinance. With this motion, only the title of the ordinance need be read as a part of the introduction and adoption process.

(d) URGENCY ORDINANCE

An urgency ordinance is an ordinance for the immediate preservation of the public peace, health or safety of the city. It may be adopted immediately upon introduction and either at a regular or special meeting. It must declare the facts constituting the urgency and it shall be passed by four affirmative votes.

(e) PUBLICATION

Within 15 days after its passage, the City Clerk shall cause each ordinance to be published, in accordance with state law, at least once in a newspaper of general circulation published and circulated in the city.

(f) EFFECTIVE DATE

Ordinances take effect 30 days after their final passage. An ordinance takes effect immediately, if it is an ordinance:

- (i) Relating to an election.
- (ii) Of an urgency nature.
- (iii) Relating to street improvement proceedings.
- (iv) Relating to taxes for the usual and current expenses of the city.
- (v) Covered by particular provisions of law prescribing the manner of its passage and adoption.

I-4. ADOPTION OF RESOLUTIONS

Resolutions may be adopted by motion on the date they are first presented to the Council. It is not required that resolutions be read, either in full or by title only.



J. HEARINGS

J-1. APPLICATION AND DEFINITION

The following procedural rules shall apply to all hearings before the City Council. As used herein the term "hearing" shall include all public hearings required by state law or city ordinance, and proceedings for the revocation, suspension or reinstatement of permits, licenses and franchises.

J-2. RIGHTS OF INTERESTED PERSONS

On the date and at the time and place designated in the notice, the Council shall afford any interested person or his/her authorized representative, or both, the opportunity to examine and cross-examine 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 hereinafter stated.

J-3. PRESENTATION OF EVIDENCE

(a) Oral Evidence

All oral statements which are relevant to the subject matter of the hearing may be considered by the Council. Oral evidence may be taken on oath or affirmation, at the request of any interested party or his/her authorized representative.

(b) Exhibits and Documents

Exhibits and documents used by the city staff and any persons participating in the hearing may be considered as evidence.

(c) Communications and Petitions

All communications and petitions concerning the subject matter of the hearing shall be read aloud either in full or by synopsis thereof, provided that a reading in full shall be had at the request of any Council Member. All such communications and petitions may be considered as evidence by the Council.

(d) Staff Reports

Whenever practicable a written staff report shall be prepared and summarized aloud as part of the staff presentation. The report shall be considered as evidence.

(e) Large Maps and Displays

Large size maps and displays presented for use at the hearing shall, whenever practicable, be displayed in full view of the participants and the audience. Said maps or displays, or authentic reductions thereof, may be considered as evidence.

(f) Admissible Evidence

The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a decision unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing, and irrelevant and unduly repetitious evidence shall be excluded.

(g) Burden of Proof and Persuasion

Regardless of the issue or issues from which the appeal is taken, and except as otherwise required by law, the burden of proof and of persuasion of any fact or issue subject to proof before the Council shall be on the Appellant. Only the issues or conditions appealed may be considered, except when an appeal is filed by a Council Member. In the event that a Council Member appeals, the entire case is appealed.

(h) Order of Presentations

(i) If one appellant only:

- Staff presentation
- Appellant's presentation (including those opposing the decision appealed)
- Opposition presentation (including those supporting the decision appealed)
- Appellant's rebuttal (limited to addressing points raised by opposition and answering Council inquiries)

(ii) If two appellants (one being the applicant):

- Staff presentation
- Permit applicant's presentation
- Opposition presentation and rebuttal
- Applicant's rebuttal (limited to issues raised by the opposition and answering Council's inquiries)

(I) Burden of Proof on Council Appeals:

Irrespective of the nature of the decision from which the appeal is taken, the burden of proof and of persuasion of any fact or issue subject to proof before the Council shall remain on the permit applicant unless otherwise required by law. An appeal on one issue opens the entire case for Council consideration.

(j) Order of Presenting Evidence on Council Appeals:

The following order of presentation of evidence shall apply to land use hearings unless the Council otherwise orders:

- Staff presentation and (responses to Council questions)
- Permit applicant's presentation
- Supporting presentations (if any)
- Opposition presentations (if any)

- Applicant rebuttal (limited to addressing points raised by opposition and answering Council inquiries)

J-4. EVIDENCE OUTSIDE THE HEARING

Any evidence taken outside the council chamber, such as field trips, views of the premises and discussions with individuals, shall not be considered by the Council in reaching its decision except:

- (a) When, during the hearing, the meeting is adjourned to a date, place and time certain for the specific purpose of taking visual or demonstrative evidence, such evidence may be considered; or
- (b) If each Council Member shall orally report his/her observations of such outside evidence taken he/she shall be subject to examination thereon by any interested person or his/her authorized representative.

J-5. CONTINUANCES

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 meeting of the Council, provided a copy of the order or notice of continuance is posted outside the council chambers forthwith following the meeting at which the order of continuance was made.

J-6. DECISION

The Council shall consider all evidence properly presented in accordance with the rules stated herein, and unless otherwise provided by law, shall render a decision or determination on the matter within 40 days of the close of the hearing. The decision or determination shall be by motion made and action taken thereon at a regular or adjourned meeting of the Council. Any Council Member who was not present during the entire hearing and has not made himself/herself familiar with the proceedings of the hearing, or who, in the opinion of the City Attorney, has a substantial conflict of interest in the

matter, shall disqualify himself/herself from discussing or voting on the matter.

J-7. RECORD OF HEARING

A verbatim mechanical recording shall be made of the oral evidence presented at the hearing. The recording, together with all documents, maps, exhibits and displays admitted into evidence, shall be retained by the City Clerk for a period of two years from the date of the close of the hearing. In lieu of retaining the recording, the City Clerk may prepare a typewritten transcript thereof which shall be retained for the same period of time. The recording or transcript and evidentiary documents shall be made available for public inspection and use at reasonable times and under such reasonable conditions as may be prescribed by the City Council or the City Clerk.