



**Council Meeting: February 12, 2008**

**SUBJECT: Revisions to Council Policy 7.2.19 Boards and Commissions  
(Information Only)**

**REPORT IN BRIEF**

The attached Council Policy 7.2.19 governing the City's boards and commissions program reflects changes in accordance with Council actions on November 27, 2007 (dealing with investigations and discipline) and January 29, 2008 (dealing with limitations on board and commission members' speech). For the readers' benefit, changes are in red.

**PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, in the Council Chambers lobby, in the Office of the City Clerk, at the Library, Senior Center, Community Center and Department of Public Safety; posting the agenda and report on the City's Web site; and making the report available at the Library and the Office of the City Clerk. Copies of this report have been provided to all board and commission members.

Prepared by: Robert Walker, Assistant City Manager

Approved by:

  
Amy Chan  
City Manager

**Attachments**

A. Council Policy 7.2.19 Boards and Commissions, with changes

**Attachment A**

## **Policy 7.2.19 Boards and Commissions**

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### **POLICY PURPOSE:**

The purpose of this policy is to outline those Council policies pertaining to the City's Boards and Commissions Program.

### **POLICY STATEMENT:**

This policy pertains only to Council-appointed boards and commissions. Many of its provisions are rooted in the City Charter, and where any conflict exists between this policy and the City Charter, the City Charter shall prevail.

Boards and commissions are created by the City Council for the following general purposes:

- To recommend to City Council specific policy-related issues for possible Council study and action, and to provide a forum and opportunity for broad community participation in the identification and prioritization of those issues; and
- To advise City Council on specific policy issues Council has chosen to study, and to provide a forum and opportunity for broad community input on those issues.
- See also Section 6: Duties.

Boards and commissions shall not involve themselves in administrative/operational matters or the implementation of Council policy.

### **Boards and Commissions Structure**

The City maintains ten Council-appointed boards and Commissions:

- Arts Commission: a 5-member body formed by Council Resolution 262-82, September 14, 1982.
- Bicycle and Pedestrian Advisory Commission: a 7-member body formed by Council Resolution 173-92, August 4, 1992.
- Board of Building Code Appeals: a 5-member body formed by Municipal Code Ordinance 1315.
- Board of Library Trustees: a 5-member body formed by City Charter Section 1013.
- Child Care Advisory Board: a 7-member body formed by Council action, May 26, 1992.
- Heritage Preservation Commission: a 7-member body formed by City Charter Section 1015.
- Housing and Human Services Commission: a 9-member body formed by Council resolution 134-85, March 19, 1985.

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- Parks and Recreation Commission: a 5-member body formed by City Charter Section 1011.
- Personnel Board: a 5-member body formed by City Charter Section 1007.
- Planning Commission: a 7-member body formed by City Charter Section 1009.

### 1. Eligibility

No board or commission members shall hold any paid office or employment in the City Government. All persons appointed shall be registered voters of the City and shall maintain their principal place of residence within the City at the time of their appointment. (Please see exceptions for the Child Care Advisory Board and the Bicycle and Pedestrian Advisory Commission below.) If at any time during their term any member of a board or commission shall cease to be an elector of the City or shall cease to maintain their principal place of residence within the City, then such person shall become ineligible to continue to serve as a member of the board or commission and said position shall be declared vacant by the City Council.

#### A. Spouses, Household Members, and Relatives

No individual shall be eligible to serve on a City board or commission, chartered or otherwise, who has a spouse, household member living under the same roof, or designated relative (parent, step-parent, grandparent, child, sister, brother, niece, nephew, uncle, or aunt of the individual or of the individual's spouse), currently serving as a member of the City Council, or employed as the City Manager, Assistant City Manager, Assistant to the City Manager, City Attorney, Department Director or Assistant Director or equivalent for the City of Sunnyvale.

#### B. Concurrent Service

No member of any board or commission listed herein, chartered or otherwise, may serve on more than one board or commission at the same time.

#### C. Specific membership requirements for charter-related Boards and Commissions are as follows:

##### (I) Personnel Board:

To be eligible for appointment, each appointee shall neither be a candidate for any other public office or position and shall not be an officer of any local, state, or national partisan club or organization, nor a former City employee. (Source: City Charter Section 1007)

No individual shall be eligible to or continue to serve on the Personnel Board who has a spouse, household member, or designated relative (parent, step-parent, grandparent, child, sister, brother, niece, nephew, uncle, or aunt of the individual or of the individual's spouse), employed by the City of Sunnyvale *in a position which has the right to have a disciplinary matter heard before the Personnel Board.*

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(II) Planning Commission:

To be eligible for appointment, each appointee shall not hold any paid office or employment in the City government, *except that the City Manager or his/her designated representative, shall serve as an ex-officio member of the Commission.* (Source: City Charter Section 1009)

**D. Specific membership requirements for non-charter-specified Boards and Commissions are as follows:**

(I) Arts Commission:

The members of this commission shall have a demonstrated interest in the arts (such as visual, performing, literary) and in the art programs of the City. Strong consideration shall be given to applicants with a background in the arts. (Source: Resolution No. 193-84).

(II) Housing and Human Services Commission:

The members of the Housing and Human Services Commission shall have a demonstrated interest in housing or human services issues. (Source: Resolution No. 134-85).

(III) Board of Building Code Appeals:

To be eligible for appointment, each appointee shall be qualified by experience and training to pass upon matters pertaining to building construction. (Source: Municipal Code, Chapter 16.08)

(IV) Child Care Advisory Board:

The board membership shall consist of representatives of 1) community care licensing and resource/referral agencies; 2) community colleges, school districts and County Office of Education; 3) child care centers and family child care services; 4) business community; 5) parents; 6) related fields. No more than two representatives of a category will serve at any given time. In the event there are unfilled vacancies due to lack of participation from one of the above groups, vacancies may be filled by representatives of other agencies with a role in child care or the community at large. (Source: City Council motion May 26, 1992)

All persons appointed to the Child Care Advisory Board at the time of his or her appointment shall be affiliated with (either through employment or an official membership) the above noted organizations. In the event that the affiliation ceases, that person shall be ineligible to continue to serve as a member of the CCAB. (Source: City Council motion May 26, 1992)

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### **E. Limitation on Terms**

Any person appointed to a board or commission shall be immediately eligible, upon the expiration of their term, to serve on a different board or commission (for the purposes of this policy, the resignation or removal of a member from a board or commission does not constitute the expiration of their term—i.e., a board or commission member is not eligible to serve on a different board or commission until the unexpired term from which he/she has resigned or was removed, has expired).

All board and commission members are eligible to serve two successive four-year terms on the same board or commission. No person who has served two such successive four-year terms shall be eligible for appointment to that same board or commission for two years following the expiration of the second full term for which the member was appointed and served. Serving an unexpired term of up to 2 years in length shall not count toward years served in terms of eligibility.

The members of the CCAB shall serve for a term of four years and until their respective successors are appointed. Membership terms shall be staggered. The designated agencies are required to identify the most appropriate representative, which could result in an individual serving multiple terms as the designated agency representative. The limitation on terms that is policy for most of the existing boards in the City may be waived for those categories of membership in which there is only one designated agency.

### **2. Recruitment**

Through the Office of the City Manager, efforts will be made to fill board or commission vacancies as soon as practical. Upon notification of a vacancy, whether planned or unplanned, staff shall inform Council of the status of recruitment efforts to fill the vacancy.

### **3. Appointment**

Appointments and removals of board and commission members shall be agendaized at a City Council meeting.

The appointment process will be conducted as follows:

The Mayor will announce by board or commission each vacancy including its term, and then will read each applicant's name. Council will vote on each applicant. The candidate receiving the most affirmative votes and at least four affirmative votes will be appointed. Should no candidate receive at least four affirmative votes, the vacancy will remain. Should a tie between the candidates receiving the most affirmative votes occur, the affected applicants will be voted on again. If a tie still remains, and the affected applicants each have received at least four affirmative votes, the Mayor would ask the City Attorney to draw the name of the person to be appointed. The process is repeated for each board or commission.

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If vacancies still exist after the appointment process is conducted, staff shall inform Council of alternative courses of action.

The members of each board or commission shall be subject to removal by motion of the City Council approved by at least four affirmative votes, for the following reasons:

### **A. Exceptions:**

#### **(I) Personnel Board:**

Two of the five members shall be appointed by the City Council from a list of five persons to be nominated by election of the employees in the classified service. (Source: City Charter Section 1007)

#### **(II) Child Care Advisory Board:**

##### **(a) Designated Agency Appointments:**

When a vacancy occurs in the following categories: 1) community care licensing and resource/referral agencies; 2) community colleges, school districts and County Office of Education; 3) child care centers and family child care services; representative agencies shall be contacted to make an appointment to the CCAB. The City Council will ratify the appointment. In the event that one or more of the designated agencies elects not to participate in the CCAB, the City may accept applications from other agencies involved in child care and will consider these applications amongst the multiple agency/individual appointments as described below.

##### **(b) Multiple Agency or Individual Appointments:**

For those membership categories for which there is more than one agency or organization which may be interested in seeking membership on the CCAB, i.e., child care centers and family day care providers (includes one alternate), Sunnyvale businesses, religious institutions and parent representatives, the child care staff shall seek applicants through mailings and other targeted recruitment efforts. Child care staff will recommend appointments which will be ratified by the City Council. (Source: City Council motion May 26, 1992)

#### **(III) Bicycle and Pedestrian Advisory Commission**

The members of the commission shall be selected from two categories:

- (a) Category One shall be bicyclists or pedestrians in the City of Sunnyvale. Every person in this category shall, at the time of his or her appointment, be a registered voter of the City and shall maintain his or her principal place of residence within the City. Should any person so appointed cease to be an elector of the City**

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or cease to maintain his or her principal place of residence within the City, that person shall be ineligible to continue to serve as a member of the commission.

- (b) Category Two shall include members of the PTA or other parent groups, administrations of schools in Sunnyvale, commute coordinators for major employers within the City, members of neighborhood associations, principals or teachers from Sunnyvale schools or persons interested in park and recreational activities in the City. (Source: Resolution No. 173-92.)

### **4. Oath of Office**

Each board and commission member (and alternates for the Child Care Advisory Board), before entering upon the discharge of the duties of his/her office, shall sign the City's Code of Ethics document and take, subscribe to, and file with the City Clerk the following oath or affirmation:

"I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States and the Constitution of the State of California, and that I will faithfully discharge the duties of the office of (here inserting the name of office) according to the best of my ability." (Amended effective December 31, 1975) *City Charter Section 910*

After taking the Oath of Office and signing the Code of Ethics in the Office of the City Clerk, each board and commission member shall have the opportunity to receive a ceremonial Oath of Office at a regularly scheduled Council meeting.

### **5. Required Training/Conferences**

Mandatory training shall be provided to all board and commission members by the City through the Office of the City Manager, including an orientation session for new members. Training shall be delivered as deemed necessary by the Council and/or City Manager and may include topics germane to a specific board or commission and/or training generic to all boards and commissions (e.g. ethics training or "how to run a meeting" for board and commission chairs).

Conferences are conducted periodically by outside groups to assist members of boards and commissions in meeting their respective responsibilities more effectively. The City's interests are often served by participation in the educational and training programs offered at the conferences. Each member of City boards and commissions may attend related training and/or conferences, provided that the conference subject matter pertains directly to the function of the board and commission and that funds for this purpose have been budgeted.

### **6. Meetings, Attendance and Quorums** (see also Council Policy 7.3.8 Posting of Agendas and Procedure for Confirming Proper Posting and Notice of Meetings)

#### **A. Meetings**

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Each board and commission shall hold regular meetings and special meetings as it may require. All meetings shall be open to the public and meet Brown Act requirements (with the exception of certain disciplinary review proceedings of the Personnel Board).

All board and commission meetings shall operate under Parliamentary Procedure. Should this policy and Parliamentary Procedure conflict, this policy shall take precedence.

### **B. Attendance**

Each member of a City board or commission is expected to attend all regularly scheduled meetings (as identified for each board and commission on the official roster). Attendance of less than 75% (regardless of whether excused or unexcused) of the regularly scheduled meetings OR two consecutive unexcused absences in 12 months may result in a letter from the Mayor requesting improved attendance and reminding the member of the Council policies on absences. If the member has three consecutive unexcused absences from regularly scheduled meetings, the member's seat will be declared vacant by Council action.

Each board or commission will record their respective members' absences as excused or unexcused and shall include that record in the minutes of the meeting at which the member is absent. Excused absences shall be limited to those which meet both of the following requirements:

- (I) The absent member must have informed the chair and/or the City staff liaison to the board or commission, of their intended absence prior to the scheduled meeting. (Failure to inform the chair or the staff liaison prior to the meeting will result in an unexcused absence, unless extenuating circumstances prevent advance notice.), *and*
- (II) The absence is due to one of the following:
  - (a). A death in the family,
  - (b). Personal illness,
  - (c). Board or commission-related business,
  - (d). Personal leave (limited to one per fiscal year) or emergency, or
  - (e). Decision by member's supervisor in employment or required military service.

Staff shall prepare for the City Council a quarterly attendance report of all the City's boards and commissions showing the attendance of each member during the past 12 months. Attendance issues will be highlighted by the staff.

- (III) Exception:

Attendance policies for the Child Care Advisory Board will be consistent with those of other boards and commissions in the City with the exception that members may send alternates in their stead. In order to have full voting rights, the alternate must be approved by Council in

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advance and take the oath. The member shall be reflected in the minutes as having been in attendance through the alternate.

### **C. Quorums**

Boards and commissions have a quorum when 51% of their current membership is present. "Current membership" is defined as the official membership, less any seats that are formally vacant through resignation, unfilled vacancy or removal.

### **D. Majority and Abstentions**

Board and/or commission motions shall be approved by a majority of legal votes cast. Members who fail to vote are presumed to have waived the exercise of their right and to have consented to allow the will of the organization to be expressed by those voting. The tabulation of a vote is based on the number of members present *and* voting. Abstentions are not counted, since a member who abstains voluntarily relinquishes his or her vote, and is not counted in the results. (*The Standard Code of Parliamentary Procedure*, 4<sup>th</sup> Edition)

## **7. Duties**

Aside from obligations related to attendance and training noted elsewhere in this policy, the general duties for all board and commission members are:

### **A. Work Plans**

Each board and commission shall create an Annual Work Plan which is a 12-month calendar of the policy issues the board/commission will be acting on during the year.

### **B. Study Issues Process**

The Study Issues process is designed to assist City Council with setting priorities for the coming calendar year. Board and commission members have two roles in this process:

- To advise Council regarding the identification of policy issues to study
- To advise Council on those issues Council has decided to study

Within one month of origin, new study issue papers sponsored by Council or a board or commission will be presented to respective boards or commissions, or at the next regular meeting of the respective board or commission.

### **C. Budget**

Board and commission members have two roles in the budget process:

- To advise Council regarding the identification of budget issues

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- Provide Council a recommendation regarding the City Manager's recommended budget for content under the purview of their board or commission.

### **D. Chairperson's Role and Responsibilities**

- (I) Attends training in how to be an effective chair prior to assuming the role.
- (II) Presides at meetings of the board or commission, and follows Brown Act requirements for conducting meetings.
- (III) Serves as a liaison to Council at City Council meetings.
- (IV) Coordinates the scheduling of special meetings or cancellation of a meeting with the staff liaison.
- (V) Coordinates the setting of the agenda with the staff liaison. Should the chair and the staff liaison disagree regarding the agenda, the City Manager shall have final authority.
- (VI) Board and commission chairs are encouraged to attend Council meetings (or to appoint an alternate **on either a case by case or long-term basis**) for the purpose of representing the official position (including both the majority and the minority opinions) of the board or commission. The chair shall report back to their board or commission on Council's discussion and ultimate decision.
- (VII) **Counsels and administers verbal reprimands and written warnings to board and commission members who do not comply with City policy.**

### **E. Vice-Chair**

- (I) Attends training in how to be an effective vice-chair prior to assuming the role.
- (II) Serves as the presiding officer in the absence of the chair.

### **F. Additional Duties**

Additional duties may be conferred upon specific boards and/or commissions by the City Council. These shall be memorialized via the City Charter or Council resolution. By-laws shall be established by all boards and commission and be approved by Council prior to taking effect.

## **8. Interaction with City Council, Public, Staff, and other Board and Commission Members**

The City Manager shall appoint a staff liaison to support each board and commission.

In addition to their role as advisors to the Council, boards and commissions serve as liaisons between the City and the general public regarding issues under their purview at City sponsored meetings or events. Each board and commission functions as a communication link between the community and the City, explaining City programs and recommendations, advocating established City policy and services, as well as providing a channel for citizen expression.

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Outside of official board or commission meetings, individual board and commission members are not authorized to represent the City or their board or commission unless specifically designated by the Council or the board or commission to do so for a particular purpose. **In private, board and commission members may communicate at any time and on any subject with the City Council, and may express to Council individual viewpoints and opinions. In public, however, all members shall represent the official policies or positions of their board or commission. Only the chair or his/her appointee shall speak during a Council public hearing on any item that has been addressed by the board or commission, and for which detailed minutes have been provided to the Council. The chair shall represent the majority view of the board or commission, but may report on any minority views as well. If Council does not have the benefit of detailed board/commission meeting minutes, any member of the pertinent board or commission may speak under standard time limits, but shall not represent positions which are contrary to official policies of the City or official positions of the board/commission to which they belong. When an official board or commission position differs from staff's recommendation on a particular policy issue, then at the Mayor's discretion additional time may be provided to the chair of the board or commission (or his/her designee) to explain the position of the board/commission or to rebut statements made by staff or the public. If new information is brought to light during a public hearing which was not shared previously with the board or commission, the Mayor may allow the board or commission chair to respond. If the Council deems the new information sufficient to warrant additional study, then by majority vote Council may remand the issue back to the board or commission for further study prior to taking other action itself.**

Individual opinions and positions may be expressed **by board and commission members** regarding items that have not come before the particular board/commission to which they belong. When presenting their individual opinions and positions, members shall explicitly state they do not represent their body or the City of Sunnyvale, nor will they allow the inference that they do. *(Source: Code of Ethics for Elected and Appointed Officials)*

Although a board or commission may disagree with the final decision the Council makes, the board or commission shall not act in any manner contrary to the established policy adopted by the Council.

Board and commission members shall adhere to the City's Code of Ethics. Council conduct with boards and commissions is covered in the City's Code of Conduct for Elected Officials adopted in April 2000.

Council shall be kept informed of the activities of boards and commissions by virtue of the board and commission minutes.

Council shall consider joint study sessions with boards and commissions as warranted. Council shall encourage members of the public to submit issues and/or concerns to the appropriate board or commission prior to Council considering the matter. *(Community Participation Sub-Element 7.2C.5(a))*

Board and commission members with questions or concerns about board or commission administrative matters **shall seek resolution in the following manner and sequence:**

- 1. Consult your board/commission chair (If you are the chair, proceed to Step 2).**

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2. If the chair is unable to satisfactorily answer your question or address your concern, or if your problem is with the chair; or if you are the chair, **consult your staff liaison.**
3. If the staff liaison is unable to satisfactorily answer your question or address your concern, (or if your problem is with the liaison), **consult the Department Director** to whom the staff liaison reports. **This must be done in writing**, specifying your concerns and the unsatisfactory nature of the responses received from the chair and/or the staff liaison. The Department Director will respond back to you in writing within 10 business days (or provide a reason why that is not possible and a specific deadline for a response).
4. If the Department Director is unable to satisfactorily answer your question or address your concern, **consult the Office of the City Clerk. All written materials identified in Step 3 must be provided to the City Clerk** upon initial contact with that office. You will receive a written response from the Office of the City Clerk within 10 business days (or a reason why that is not possible and a specific deadline for a response).
5. If the Office of the City Clerk is unable to satisfactorily answer your question or address your concern, **consult the Office of the City Manager. All written materials identified in Steps 3 and 4 must be provided to the Office of the City Manager** upon initial contact with that office. You will receive a written response from the Office of the City Manager within 10 business days (or a reason why that is not possible and a specific deadline for a response).
6. If the Office of the City Manager is unable to satisfactorily answer your question or address your concern, **consult the Mayor's Office. All written materials identified in Steps 3, 4, and 5 must be provided to the Mayor.** You will receive a written response from the Mayor's Office within 10 business days (or a reason why that is not possible and a specific deadline for a response).

### 9. Recognition

An annual event to recognize the service of all board and commission members, as well as citizens serving on special Council ad-hoc committees, shall be coordinated through the Office of the City Manager.

Outgoing board and commission members who have served their full term shall receive a certificate of appreciation and a small memento of appreciation. The type of certificates and mementos provided are at the discretion of the Office of the City Manager, shall not exceed the gift limit established by the Fair Political Practices Commission in effect at the time, and will be suitable for the occasion.

### 10. Resignation/Completion of Term

When a board or commission member resigns from his or her seat, the member shall notify the Mayor in writing (email, fax or letter), with copies to the staff liaison, City Clerk and City Manager, indicating the effective date and the reason(s) for resignation. When the resignation notice is received by the Office of the City Clerk, staff shall notify Council of the resignation and the status of recruitment efforts to fill the vacancy. Upon resignation or completion of board or commission assignment, individuals shall not represent themselves further as a board or commission member.

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### **11. Sanctions**

Counseling, verbal reprimands and written warnings may be administered by board and commission chairs (or their designee) to board and commission members for failure to comply with City policy. These lower levels of sanctions shall be kept private to the degree allowed by law.

Written reprimands may be administered by the Mayor. Copies of all written reprimands shall be distributed in memo format to the chair of the respective board or commission, the City Clerk, the City Manager, and the full Council. Written reprimands shall not be included in packets for public meetings and shall not be publicized except as required under the Public Records Act.

Any form of discipline involving formal censure, or affecting board or commission member status (i.e., removal from office or removal of chairperson status), shall be imposed by a majority vote of at least a quorum of the Council at a noticed public meeting and such action shall be preceded by a Report to Council with supporting documentation. The Report to Council shall be distributed in accordance with normal procedures, including hard copies to numerous public facilities and posting online. Any Report to Council addressing alleged misconduct by a board or commission member shall be routed through the Office of the City Attorney for review of whether any information is exempt from disclosure (subject to redaction) based on privacy interests authorized under the Public Records Act.

### **12. Investigations**

When deemed warranted, the Mayor or majority of Council may call for an investigation of board or commission member conduct. Should the City Manager or City Attorney believe an investigation is warranted, they shall confer with the Mayor or Council. The Mayor or Council shall ask the City Manager and/or the City Attorney to investigate the allegation and report the findings.

The results of any such investigation shall be provided to the full Council in the form of a Report to Council, and shall be placed on the agenda of a noticed public meeting as "Information Only". Any such report shall be made public and distributed in accordance with normal procedures (i.e., hard copies to numerous public locations and posted online). Any report to Council addressing the investigation of board and commission members shall be routed through the Office of the City Attorney for review of whether any information is exempt from disclosure (subject to redaction) based on privacy interests authorized under the Public Records Act.

It shall be the Mayor and/or the Council's responsibility to determine the next appropriate action. These actions include, but are not limited to: take no further action; discussing and counseling the individual on the violations; placing the matter on a future public hearing agenda to consider sanctions; forming a Council ad hoc subcommittee to review the allegation, the investigation and its findings, as well as to recommend sanction options for Council consideration.

### **13. Removal**

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The members of each board or commission shall be subject to removal by motion of the City Council approved by at least four affirmative votes, for the following reasons:

- Failure to maintain eligibility requirements
- Failure to take the required Oath of Office
- Failure to complete required training
- Failure to meet attendance requirements
- Failure to fulfill board or commission duties
- Failure to adhere to Council policy governing boards and commission member interaction with City Council, the public, staff, and/or other board or commission members.
- Violation of Code of Ethics and Conduct

### 14. Administrative Policies

The City Manager shall have full authority to develop and implement any administrative policies and practices deemed necessary to support the operation of all boards and commissions.

((Adopted: RTC 07-148 (5/1/07); clarity update 9/21/07; Revised in accordance with Council action on 11/27/07 and 1/29/08)

Lead Department: Office of the City Manager

City Manager's signature: \_\_\_\_\_

Date: \_\_\_\_\_