

ORDINANCE NO. 2318

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, AMENDING WEST COVINA MUNICIPAL CODE SECTIONS 2-50 (“DECORUM-REQUIRED”) AND 2-51 (“SAME-ENFORCEMENT OF DECORUM) OF CHAPTER 2 (“ADMINISTRATION”), ARTICLE II (“CITY COUNCIL”), DIVISION 2 (“MEETINGS AND RULES OF PROCEDURE”)

WHEREAS, the First Amendment of the United States Constitution and Article 1 Section 2 of the California Constitution gives every person the right to freely express his or her views without governmental restraint or abridgement of speech;

WHEREAS, the free speech privileges granted under the U.S. and California Constitutions must be balanced with conduct and comments from the general public which disrupt, disturb or impede the orderly conduct of the Council meeting (“Rules of Decorum”);

WHEREAS, California Government Code Section 36813 authorizes the City Council to establish rules for the conduct of its proceedings;

WHEREAS, the city council chambers are considered a *designated or limited public forum* that is open for expressive activity by part or all of the public (*White v. City of Norwalk*, (9th Cir. 1990) 900 F.2d 1421, 1425);

WHEREAS, any *content based* Rules of Decorum that attempt to restrain or abridge speech in a *designated or limited public forum* is examined by the courts under a *strict scrutiny* standard and shall only be upheld if they serve a *compelling state interest*;

WHEREAS, notwithstanding the foregoing, *content neutral* Rules of Decorum, intended to prohibit behavior that actually disrupts, disturbs or otherwise impedes the orderly conduct of the meeting will be upheld (*Id.*; *Acosta v. City of Costa Mesa*, (9th Cir. 2013) 718 F.3d 800, 815; *Richard v. City of Pasadena*, (C.D. Cal 1995) 889 F. Supp. 384);

WHEREAS, moreover, city council meeting Rules of Decorum may also regulate a speaker who is speaking too long, being unduly repetitious, or extending discussion of irrelevancies, if they actually disturb or impede a meeting (*Norse v. City of Santa Cruz*, (9th Cir. 2010) 629 F. 3d 966, 976; *City of Norwalk*, (9th Cir. 1990) 900 F.2d 1421, 1424); and

WHEREAS, it is the intent and desire of the City Council to conduct its business in an orderly and fair manner and, as a result, the City Council finds that it is necessary to establish Rules of Decorum in order to accomplish these goals.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Section 2-50 entitled “Decorum-Required” is amended to read as follows:

Sec. 2-50. - Decorum—Required. (a) While the council is in session, the members shall preserve order and decorum, and a member shall neither, by conversation or otherwise, delay or disrupt the proceedings or the peace of the council nor interrupt any member while speaking or refuse to obey the orders of the council or its presiding officer, except as otherwise herein provided.

(b) Members of the public shall not willfully disrupt the meeting or act in a manner that actually impairs the orderly conduct of the meeting. For the purposes of this code, “willfully disrupt” includes, but is not limited to, continuing to do any of the following after being warned by the Mayor that continuing to do so will be a violation of law:

- a. Addressing the Mayor and City Council without first being recognized.
- b. Persisting in addressing a subject or subjects, other than that before the Mayor and City Council.
- c. Repetitiously addressing the same subject.
- d. Failing to relinquish the podium when directed to do so.
- e. From the audience, interrupting or attempting to interrupt, a speaker, the Mayor, a council member, or a staff member or shouting or attempting to shout over a speaker, the Mayor, a council member or a staff member.
- f. As a speaker, interrupting or attempting to interrupt the Mayor, a council member, or a staff member, or shouting over or attempting to shout over the Mayor, a council member, or a staff member. Nothing in this section or any rules of the council shall be construed to prohibit public criticism of the policies, procedures, programs, or services of the City or of the acts or omissions of the City Council. It shall be unlawful to violate the provisions of this Section.

If any subsection, sentence, clause, or phrase or word of this Section 2-50 is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Section. The City Council hereby declares that it would have passed this section and each subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more subsections, sentences, clauses, phrases or words had been declared invalid or unconstitutional.

SECTION 2: Section 2-51 entitled “Same-Enforcement of decorum” is amended to read as follows:

Sec. 2-51. - Same—Enforcement of decorum.

The chief of police or any member or members of the police department or other members of the city staff may be designated by the council to be sergeant-at-arms when, in the opinion of the presiding officer, the services of a sergeant-at-arms is necessary, and the sergeant-at-

arms shall carry out all orders and instructions given by the presiding officer for the purpose of maintaining order and decorum in accordance with Section 2-50 at the council meeting.

SECTION 3: The City Council hereby finds that it can be seen with certainty that there is no possibility the adoption and implementation of this ordinance may have a significant effect on the environment. The ordinance is therefore exempt from the environmental review requirements of the California Environmental Quality Act pursuant to Section 15061(b) (3) of Title 14 of the California Code of Regulations.

SECTION 4: Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this ordinance, or its application to any other person or circumstance. The City Council declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that anyone or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

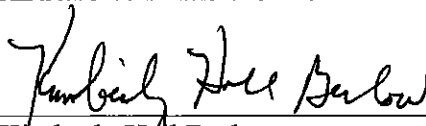
SECTION 5: This ordinance shall take effect thirty (30) days after its final passage and within fifteen (15) days after its passage, the City Clerk of the City of West Covina shall certify to the passage and adoption of this ordinance and to its approval by the Mayor and City Council and shall cause the same to be published in a newspaper in the manner required by law.

PASSED, APPROVED AND ADOPTED on this 6th day of June, 2017.




Corey Warshaw
Mayor

APPROVED AS TO FORM:



Kimberly Hall Barlow
City Attorney

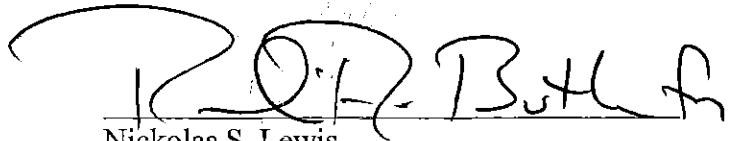
ATTEST:



Nickolas S. Lewis
City Clerk

I, NICKOLAS S. LEWIS, CITY CLERK of the City of West Covina, California, do hereby certify that the foregoing Ordinance was regularly introduced and placed upon its first reading at a regular meeting of the City Council on the 16th day of May, 2017. That thereafter said Ordinance was duly adopted and passed at a regular meeting of the City Council on the 6th day of June, 2017, by the following vote:

AYES: Johnson, Spence, Toma, Wu, Warshaw
NOES: None
ABSENT: None
ABSTAIN: None

A handwritten signature in black ink, appearing to read "N. S. Lewis", written over a horizontal line.

Nickolas S. Lewis
City Clerk