

**CITY OF BEND COUNCIL RULES**  
**ADOPTED BY ORDINANCE NS-2438**

EFFECTIVE May 20, 2011

Amended Effective December 15, 2017

Amended Effective December 20, 2020

Amended Effective May 6, 2022  
(Amended, Reorganized and Replaced with New Version)

# Table of Contents

<b>SECTION 1. COUNCIL AUTHORITY, ETHICS AND FINANCES .....</b>	<b>1</b>
1.1 Authorization, Amendment, Waiver and Intent .....	1
1.2 Appointed Positions .....	1
1.3 Government Ethics Requirements and Reporting .....	1
1.4 Ethical Conduct, Fair Treatment, Harassment and Discrimination.....	1
1.5 Oregon Statutes on Government Ethics Standards and Practices .....	2
1.6 Expenses, Reimbursement and Compensation.....	3
1.7 Gifts by the Council.....	3
<b>SECTION 2. COUNCIL MEETINGS.....</b>	<b>3</b>
2.1. Council Business Meetings.....	3
2.2 Work Sessions .....	3
2.3 Quarterly Check-in/Update Meetings .....	4
2.4 Roundtable Meetings .....	4
2.5. Presiding Officer and Duties of Mayor Pro Tem .....	4
2.6 Meeting Processes .....	5
2.7 Virtual/Electronic Meetings and Council Virtual/Electronic Attendance.....	7
2.8 Meeting Attendance and Vacancy.....	7
2.9 Attendance and Participation by City Staff .....	8
2.10 Agenda for Business Meetings.....	8
2.11 Packet.....	<b>10</b>
2.12 Placing Items on Work Session or Meeting Agenda by Councilors.....	11
2.13 Recommendations .....	11
2.14 Proclamations .....	12
2.15 Consent Agenda .....	12
2.16 Addressing the Council by Members of the Public .....	12
2.17 Motions .....	14
2.18 Question of Procedure .....	15
2.19 Participation and Decorum in Council Meetings .....	15
2.20 Mobile Devices; Personal Computers .....	16
2.21 Quasi-Judicial Hearings .....	16
2.22 Exhibits .....	17
2.23 Minutes .....	17
2.24 Council Subcommittees .....	18
2.25 Executive Sessions and News Media.....	18
<b>SECTION 3. COUNCIL COMMITTEES, COMMISSIONS, BOARDS AND TASK FORCES.</b>	<b>20</b>

3.1	Liaison to Boards, Commissions and Committees .....	20
<b>SECTION 4.</b>	<b>COUNCIL RELATIONS AND COMMUNICATIONS .....</b>	<b>22</b>
4.1	Communication with Staff .....	22
4.2	General Guidelines for Effective, Respectful Councils.....	23
4.3	Communication on behalf of the City or the Council .....	23
4.4	Confidentiality; Confidential Matters .....	24
<b>SECTION 5.</b>	<b>PUBLIC RECORDS AND MEETINGS ACT COMPLIANCE.....</b>	<b>25</b>
<b>SECTION 6.</b>	<b>LEGAL REVIEW AND LITIGATION.....</b>	<b>25</b>
6.1	Ordinances and Resolutions .....	25
6.2	Litigation .....	26
<b>SECTION 7.</b>	<b>GOAL SETTING.....</b>	<b>26</b>
<b>SECTION 8.</b>	<b>SOCAL MEDIA POLICY FOR ELECTED OFFICIALS .....</b>	<b>28</b>
8.1	Purpose .....	28
8.2	Definitions .....	28
8.3	Public Records Act Compliance .....	28
8.4	Open Meetings Act Compliance .....	29
8.5	Link to City Website .....	29
8.6	Political Advocacy and Campaigning .....	29
8.7	Blocking .....	29
8.8	Notice .....	30
<b>9.</b>	<b>COUNCIL VACANCY PROCEDURE.....</b>	<b>30</b>
9.1	Charter.....	30
9.2	Procedure .....	31
<b>SECTION 10.</b>	<b>VIOLATION OF COUNCIL RULES .....</b>	<b>33</b>
10.1	Censure .....	33

## **SECTION 1. COUNCIL AUTHORITY, ETHICS AND FINANCES**

### **1.1 Authorization, Amendment, Waiver and Intent**

A. Authorization. These rules are authorized by the City Charter and the Bend Code. The Council will review these rules periodically.

B. Amendments. Amendments shall be adopted by ordinance, as required by the Charter. The Council rules are not intended to replace or supersede any applicable federal or state laws or regulations or provisions of the City Charter.

C. Waiver. The Council may by majority vote in an open Council meeting waive any Council rule for a specific situation.

D. Intent. Unless specifically referencing the powers and duties of the Mayor, when these rules reference Council members they are intended to mean the six Council members and the Mayor as a member of Council with all the powers of a city councilor in addition to the power and duties of the mayor, per the city charter.

### **1.2 Appointed Positions**

The Council appoints and can remove the City Manager and the Municipal Judge. The Council will evaluate the City Manager at least once a year. The Council may meet with the Municipal Judge once annually, but will not interfere with the Municipal Judge's exercise of judicial authority and discretion.

### **1.3 Government Ethics Requirements and Reporting**

Council members will review and observe the requirements of the State Ethics Law (ORS 244.010 to 244.390) dealing with use of public office for private financial gain. Council members shall give public notice of any conflict of interest or potential conflicts of interest and the notice will be reported in the meeting minutes. Council members shall timely file statements of economic interest with the Government Ethics Commission.

### **1.4 Ethical Conduct, Fair Treatment, Harassment and Discrimination, Training**

In addition to matters of financial interest, Council members shall maintain the highest standards of ethical conduct and assure fair and equal treatment of all persons, claims, and transactions coming before the Council. This general obligation includes the duty to refrain from:

1. Disclosing confidential information or making use of special knowledge or information before it is made available to the general public.
2. Making decisions involving business associates, customers, clients, and competitors.

3. Violations of these Council rules.
4. Promoting relatives, clients or employees for boards and commissions.
5. Requesting preferential treatment for themselves, relatives, associates, clients, coworkers or friends.
6. Seeking employment of relatives with the City.
7. Actions benefiting special interest groups at the expense of the city as a whole.
8. Expressing an opinion contrary to the official position of the Council without so stating.
9. Harassing or discriminating against any member of City staff, or any members of Council, boards, committees or commissions, or members of the public, whether at a Council meeting or elsewhere, during the course of official duties.
10. Council members shall participate in harassment training provided by the City at the beginning of each four-year term to which a member is elected as part of new Councilor orientation (or as otherwise scheduled), and other trainings on bias, discrimination, or other topics, as requested by the Mayor.
11. Council members shall participate in Diversity, Equity and Inclusion training, to be provided by the City generally at the beginning of each four-year term to which a member is elected and again two years into the election cycle (so that the full Council is receiving training twice during each 4-year term), as coordinated by the Equity and Inclusion Director.

## **1.5 Oregon Statutes on Government Ethics Standards and Practices**

A. Compliance. All Council Members are individually responsible for compliance with the Oregon Revised Statutes governing the ethical conduct of public employees and officials. Violation of these statutes may result in personal liability.

B. Conflict of Interest. A Council member shall not participate in any matter where there is a financial conflict of interest. Under state law, an actual conflict of interest is defined as one that would result in the private financial benefit of the Council member, a relative, a client, or a business with which the Council member, a relative, or a client is associated. A potential conflict of interest is one that could result in private financial benefit to those named entities. A Council member must publicly announce potential and actual conflicts of interest, and, in the case of actual conflict of interest, must refrain from participating in debate on the issue and from voting on the issue unless allowed by state law. A Council member who is not participating because of a conflict of interest shall leave the Council table after declaring the conflict.

## **1.6 Expenses, Reimbursement and Compensation**

A. Stipend. Council members receive a stipend in accordance with the City Charter and City Code and will receive no other compensation for serving on the Council.

B. Reimbursement of Expenses. Council members will follow the same rules and procedures for reimbursement as those which apply to City employees, when seeking reimbursement for attendance at authorized conferences or other authorized reimbursement. The City does not reimburse Council members for expenses incurred by their spouses.

C. Conferences and Seminars. Council members are urged to educate themselves about local government. To that end, and as funding allows, Council members are urged to attend the League of Oregon Cities functions at City expense. Requests to attend other government related conferences, training seminars and meetings will be presented to the Council for approval, and expenses may be reimbursed as provided in this section. Council members who serve on committees or the boards of the League of Oregon Cities or other similar associations of local governments will be reimbursed for reasonable expenses not covered by the respective body.

## **1.7 Gifts by the Council**

On occasion, and within the approved budget, the Council may wish to purchase a gift or memento for someone with City funds. Expenditures of this type require approval of the Council.

## **SECTION 2. COUNCIL MEETINGS**

### **2.1. Council Business Meetings**

Council business meetings are designed to hear and take formal action on matters of city concern, including but not limited to such things as recognition of community members and organizations and staff; hearing from the public on agenda items; adopting proclamations, resolutions and ordinances; approving contracts and budgets; adjudicating public hearings; and considering goals and objectives of the Council members.

### **2.2 Work Sessions**

Work sessions generally occur before a regularly scheduled Council meeting, although can occur at any available time when duly noticed. They are used to present information to Council, to allow the Council to prepare for business sessions or to allow preliminary discussion on upcoming Council items. The work session is intended for questions and more informal discussion and Council background information. At times, the City Manager and/or staff will request Council feedback or direction on the topic; however, no formal decisions or actions will be taken on work session items.

Community member groups and/or committees may also make presentations at a work session. Work sessions are open to the public. Public input will generally not be taken during work sessions, but may be considered if allowed by the Mayor or Presiding Officer.

### **2.3 Quarterly Check-in/Update Meetings**

A. As a work session item during regular meetings (or at a separate meeting as determined by the Mayor/City Manager) the City will schedule quarterly check-ins and/or updates with various Council appointed Boards, Committees and Commissions, as identified and needed for each particular update session.

B. The purpose of these quarterly updates is for Boards, Committees and Commissions to update the Council on Council goal implementation and progress, to seek feedback and direction, engage in policy development, or otherwise check in with Council on the community work being done by their respective bodies, as further articulated by the Mayor and City Manager in scheduling the meetings. These updates are intended as part of Council's community engagement process.

### **2.4 Roundtable Meetings**

A. Roundtable meetings are designed to give the Mayor and Council a forum in which to candidly discuss, as a group, matters of community interest. The intent is to also create a space for community discussion and Council interaction with the public in a less formal setting, as further defined in the Council's community engagement process. Whether a meeting between councilors, or a meeting focused on public engagement, it may be held at a location other than city hall to aid community participation (if available and ADA accessible), or virtually for greater attendance ability for Council members and the public.

B. These meetings are for Council discussion and debate only, no formal action or votes shall be taken. Outcomes from these meetings could include referral to a City Board, Committee or Commission for further refinement, action at a formal Council Business meeting, general direction for staff to prepare a more detailed work scope for discussion at a Council subcommittee or additional public outreach.

C. Roundtable meetings may, but are not required to, include public comment. A roundtable meeting may resemble a town hall, or question and answer format, primarily for receiving public input, or may not include public comment and be a forum for Council to engage in discussion of one or more issues, or may follow another format as desired by Council. The format of a roundtable meeting shall be set by the Mayor, or a majority of Council at a prior public meeting, in consultation with the City Manager.

### **2.5 Presiding Officer and Duties of Mayor Pro Tem**

A. The Mayor shall be the Presiding Officer of Council meetings. The Mayor shall also perform all duties as defined in the City Charter.

B. At the first business meeting in January of odd numbered years, the Council shall elect from its membership a mayor pro tem, who shall serve as the Presiding Officer at any time the Mayor is not available.

C. The Presiding Officer shall have all rights and privileges of a Council member.

D. Prior to calling a meeting to order, the Presiding Officer will determine whether a quorum of the Council has been established. Once it has been determined that a quorum exists, the Presiding Officer will call the meeting to order.

E. In the absence of the Mayor or Mayor Pro Tem, the City Recorder, shall call the Council to order, and a temporary Presiding Officer shall be elected by the members of the Council present.

F. The Mayor or Mayor Pro Tem shall assume the duties of Presiding Officer from any temporary Presiding Officer if they arrive after the start of a meeting, but the temporary Presiding Officer shall preside until the end of any pending agenda item.

G. In the event a quorum of the Council has not been established, the Presiding Officer will adjourn the meeting immediately. If at any point during a meeting a quorum of the Council no longer exists, the Presiding Officer will adjourn the meeting with no further action.

H. The Presiding Officer decides all procedural questions. The City Attorney acts at the Council's parliamentarian and shall advise the Presiding Officer on any points of order upon request. A procedural decision may be overruled by a majority vote of the Council, after a motion and a second.

I. The Presiding Officer shall sign all ordinances and resolutions adopted by the Council.

J. The Mayor (or their designee, typically the Mayor pro tem) may send letter(s) supporting regional, state or federal legislation that is in alignment with current Council goals, without seeking approval from the Council, particularly if time sensitive. The Mayor will make every effort to consult with the Mayor pro tem prior to signing any such letter(s). The Mayor, with the help of City staff, will inform all Councilors and promptly provide them with copies of any such correspondence.

## **2.6 Meeting Processes**

A. Regular Meetings. Unless provided otherwise by ordinance, the City Council shall hold regular business meetings on the first and third Wednesdays of each month at such time as the Council determines, including virtual meetings. If the regular meeting falls on a holiday, the meeting shall be held on the day following or canceled. Occasional regular meetings may be cancelled at the discretion of the Presiding Officer in consultation with the City Manager (for example, one summer meeting in July is often cancelled).



B. Physical Location of Meetings. Council meetings shall be held in the Council Chambers of City Hall or such other location as the Council determines, as long as ADA accessible and within City limits (subject to limited exceptions).

C. Virtual or Electronic Meetings and Attendance. (See Section 2.7 below).

D. Special Meetings. Special meetings can be held as needed with 24 hours' notice to the general public, any news media who have requested notice, and to members of the Council. Prior to holding a special meeting, the City Manager will determine Council member availability, and the ability to meet the quorum requirement. Special meetings may be called by the City Manager, the Mayor, or a majority of Council at a public meeting.

E. Emergency Meetings. In the case of an emergency, an emergency meeting may be called by the City Manager, the Mayor, or two Councilors, consistent with state law. The minutes of the emergency meeting shall describe the emergency justifying less than 24 hours' notice. The City will attempt to contact the media and other interested persons to inform them of the meeting. Council members are responsible to inform staff of how they can be reached when out of town.

F. Notice to City Recorder. The City Recorder shall be advised of all special and emergency meetings of the City Council.

G. Public Notice. Public notice of all meetings shall be provided by the City Recorder.

H. Executive Sessions.

1. An executive session (meeting closed to the public) may be held in accordance with state law. Care will be taken to ensure that proper and timely notice is made in accordance with statutory requirements. Executive sessions may be held during regular, special or emergency meetings, so long as appropriate statutory requirements are met.

2. No formal actions can be taken during an executive session. When the Council reconvenes in open session, formal action may be taken. Only the Council, City Manager, City Recorder and specific staff members, news media representatives and others specifically invited can attend an executive session.

3. A major reason for allowing members of the news media to attend executive sessions is to ensure that the issues discussed are proper subjects and actions under the state laws related to executive sessions and to keep them informed concerning the background of deliberations so they have a better understanding of any decisions made as a result of the meeting. Members of the press shall be told that they may not report the substance of an executive session.

4. Minutes or a recording of executive sessions are required.
5. Material discussed during an executive session should not be disclosed outside the executive session or other privileged communications.

## **2.7 Virtual/Electronic Meetings and Council Virtual/Electronic Attendance**

A. Virtual/Electronic Meetings. Any meeting, including an executive session, special meeting, emergency meeting, subcommittee meeting or other meeting of Council, may be held through the use of telephone or other electronic or virtual communication, as directed by the Mayor in consultation with the City Manager, if they find that in-person attendance at the meeting would present a risk to public health or safety or the health or safety of the participants, or by the City Manager if required by Emergency Order(s). Any meeting so held shall otherwise be conducted in accordance with ORS 192.610 to 192.690, except as otherwise specified in state or local emergency orders or state law related to local government public meetings and operations during a state of emergency.

B. Public Attendance. When telephone or other electronic means of communication is used and the meeting is not an executive session, the meeting shall be made available to the public to observe or listen to electronically or virtually. For executive sessions, the notice will include information on how the media may observe the meeting.

C. If public comment would have been allowed at an in-person meeting, to the extent reasonably possible, the City will provide an opportunity for oral testimony by telephone, video or other electronic or virtual means. For public hearings, oral testimony will be allowed by telephone, video or other virtual means, and written testimony may be submitted by electronic mail or other electronic means, in a timely manner so that the governing body is able to consider it.

D. Council Member Electronic/Virtual Attendance. Upon reasonable notice to the City Manager and Mayor, a Council member may attend an otherwise in-person meeting, either electronically or virtually, when they determine it is in the interest of their health or safety, or when due to unforeseen or excused circumstances, regardless of whether or how many Council members are attending in person. Electronic or virtual attendance is considered attendance for purposes of a quorum of the Council members.

E. Council Boards, Committees and Commissions. The rules and procedures for virtual or electronic meetings and attendance may be applied to Council appointed Boards, Committees and Commissions, as determined by the City Manager and Mayor.

## **2.8 Meeting Attendance and Vacancy**

A. Attendance. Council members are required to attend all Council meetings in person or virtually as provided for in Section 2.7, unless excused. Councilors will inform the Mayor and/or City Manager if they will be unable to attend any meeting. If the

Mayor will be absent, the Mayor will inform the City Manager and the Mayor Pro Tem.

B. Absence for Portion of a Quasi-Judicial Hearing. For quasi-judicial hearings, a Council member who was absent during the presentation of evidence cannot participate in any deliberations or decision regarding the matter unless the Council member has reviewed all the evidence and testimony received.

C. Vacancy. Under the Charter, a Council position becomes vacant if the Council member is absent from the City for more than 30 days without Council's permission or from all meetings of the Council within a 60-day period. A vacancy can also be created if a Councilor is elected to another lucrative office (such as elected Mayor, or State Legislator). For other reasons for a vacancy, see Section 22 of the Charter. The general process for filling a vacancy is in Section 9 below, unless waived for a specific situation by a majority vote in an open Council meeting under Section 1.1 (C) of these rules.

## **2.9 Attendance and Participation by City Staff**

A. Staff Attendance. The City Manager, City Attorney, the City Recorder (or designees) are required to attend all Council meetings unless excused. The Chief of Police (or designee) is required to attend all council regular meetings.

B. City Manager. The City Manager may make recommendations to the Council and shall have the right to take part in all Council discussions but shall have no vote.

C. City Attorney. The City Attorney will have the right to take part in Council discussion, and will, upon request, give an opinion, either written or oral, on legal questions. The City Attorney, if requested, shall act as the Council's parliamentarian, but will have no vote.

D. City Recorder. The City Recorder will attend all Council meetings, and keep the official minutes. The City Recorder will perform other duties as may be needed for the orderly conduct of meetings.

E. Department Directors. Department directors or other staff will attend Council meetings upon request of the City Manager or Council through the City Manager.

F. Chief of Police and Staff. The Chief of Police or other designated member of the Police Department, or other city staff for virtual meetings, will carry out all orders and instructions given by the Presiding Officer for the purpose of maintaining order and decorum at the Council meetings.

## **2.10 Agenda for Business Meetings**

A. Council business meetings will generally contain the following categories, unless the Presiding Officer or Council changes the agenda. Particularly the order of

items 4-12 may be changed prior to posting of the agenda in the discretion of the Presiding Officer to respond to council business needs, items of community interest, or at the request of the City Manager. After posting, the Presiding Officer may change the order of the agenda based on the number and interest of public attendees or other business needs of the Council. Any changes in the agenda made after posting of the agenda will be announced by the Presiding Officer at the beginning of the meeting.

1. Call to Order and Roll Call.
2. Opening Statements (Such as the Pledge of Allegiance, Land Acknowledgement, or other cultural or centering opener to start the meeting).
3. Good of the Order:
  - Proclamations (See Section 2.14)
  - Presentations
  - Motions on matters out of the Work Session or Executive Session in discretion of Mayor/City Manager
  - Reports on Council member activities can be moved to Good of the Order (rather than during Council Action and Reports)
  - City Manager Report can be moved to Good of the Order (rather than at the end of the business meeting)
4. Visitor's Section. This is a time for relevant public participation and public comments on any issue of City business. Public comment should not be used to testify about a quasi-judicial land use matter, to testify on an item that is not a public matter, to testify on a matter which has been or is scheduled to be heard by a hearings officer, or to provide or gather additional testimony or information on any matter after the official record has been closed on any matter which has been the subject of a public hearing (including prior to a second reading or an ordinance where the public hearing has been closed). (See Section 2.16 for further discussion of the Visitor's Section, Public Comment and Public Hearings.)

Public comment(s) on a specific agenda item may be scheduled to be heard right before the decision on that agenda item.

If a member of the public wishes to speak on an item that is scheduled for a public hearing, the speaker must wait until that public hearing.

5. Consent Agenda. (See Section 2.15)
6. Items Removed from Consent Agenda.

7. Land Use Matters, including Public Hearings. (See Section 2.21)
8. Ordinances and Resolutions, and associated Public Hearings or Public Comment.
9. Council Business: Contract approvals, agreements, etc.
10. Council Action and Reports:
  - Intended as an opportunity for Councilors to report on meetings they have attended in a liaison capacity or other relevant City business.
  - Motions should generally be limited to the following: time sensitive requests for action on letters or other indications of support, matters out of executive session, consent to Mayor's committee appointments, and action items moving forward out of a work session, at the Mayor's discretion.
  - Generally, Council members should come prepared and limit their comments to approximately three minutes to respect everyone's time at the end of the business meeting.
11. City Manager Report: To focus on reporting on progress on Council goals and related work plan, as well as other timely community or City-related announcements.
12. Adjournment.

B. Preparation of Agenda. The City Manager shall prepare a written agenda for all regular and special Council meetings. The Mayor (or Mayor pro tem in the Mayor's absence) will meet regularly with the City Manager to determine the scheduling and review of agenda items.

C. Issue Summary. Staff will prepare an Issue Summary for every substantive item on the Council Agenda. The Issue Summary shall be considered findings in support of the Council action unless the Council's decision does not follow the recommendation in the Issue Summary.

## **2.11 Packet**

A packet including the agenda and supporting materials will normally be available to the Council by 5 p.m. on the Thursday before each regularly scheduled Council meeting. The City Manager or Mayor may change the agenda at any time prior to the start of the Council meeting, and the Presiding Officer may change the agenda after the start of the meeting. A change in the agenda after the start of the Council meeting is a procedural decision.

## **2.12 Placing Items on Work Session or Meeting Agenda by Councilors**

A. Timing and Process for Placing Matter on Agenda. Any Council member may request that a matter be placed on the work session portion of the agenda for a brief discussion by Council at the first Council meeting of the month. This work session will include time to discuss such requests, which should be provided to the Mayor, City Manager, and City Recorder at least seven days prior to the meeting. Before providing a request for a work session item, the Council member should discuss with the City Manager and other appropriate staff how the requested item fits into the Council's goals, how much staff time an item may require, and whether, if it moves forward, the item should be referred to a Council subcommittee or Council advisory committee, or go straight to the City Council for timely action, pending Council interest in the item.

B. Council Discussion and Action. The initial discussion of each item should generally not exceed 15 minutes, unless a majority of the Council decides otherwise. If a majority of Council supports further consideration of the idea, a majority may approve moving the item to a Council subcommittee, Council advisory committee, a work session or regular meeting item, or other path as determined by Council. If a motion and vote is needed as determined by the Chair, formal action will be taken during the regular business meeting rather than the work session.

C. Action Items. Any proposed change to the municipal or development code will normally require a full work session agenda item. A request from a Councilor for such action items (a resolution, amendment to the municipal code, or Council-initiated change to the land use code), requires the express concurrence of at least four members of the Council in order to be placed on a future Council meeting agenda. If a formal motion is needed for the Council decision to move forward, it must occur at a regular Council meeting. If approved, the Mayor and City Manager will schedule the matter for a future meeting, which may include a work session or other procedure and/or public involvement, including consideration of staff time and resources as required. *All Councilor requests, whether for a work session or regular agenda item, should be considered by Council in light of its goals and priorities, as well as staff capacity and availability, especially those that are time intensive.*

Council acknowledges that notwithstanding this subsection, some items (such as those that are legally time sensitive, uncontroversial or straightforward) may have unanimous support from Council to move forward immediately as agenda items, or direction to be further considered for recommendation by an advisory committee or Council subcommittee. Such items may move forward without following this subsection.

## **2.13 Recommendations from Boards/Committees/Commissions**

Before making a request for an item to be placed on the Council agenda, the Council member should work with the City Manager and/or relevant staff person to understand the time that may be needed for a recommendation from the relevant Council board, commission or committee, if within the purview of that governing body. Any recommendation from such body should be included with the agenda item.

## **2.14 Proclamations**

A. From time to time, the Council adopts proclamations declaring a specified date or month to recognize the efforts of various community groups and individuals on certain projects or subjects, or annual cultural events, historical times, community recognition, etc., that we celebrate through proclamations. In declaring such dates for special observance, the Council does not wish to promote or exclude any particular point of view. The adoption of a proclamation is intended to provide the formal recognition of the event.

B. All proclamations must have sponsorship of a Council member (or the full Council) and a local sponsoring organization or community group to be considered for adoption. Proclamations are for local efforts only or national efforts that affect the local community; a representative from the sponsoring organization or community group must be at the Council meeting at the time the proclamation is adopted in order to accept the proclamation. The sponsoring organization or community group should work with the City Council member(s) and/or City staff to propose the language for the proclamation, make recurring requests each year, and make the request at least 10 days in advance of the council meeting.

## **2.15 Consent Agenda**

A. In order to make more efficient use of meeting time, the City Manager will place all items of a routine nature on which no debate is expected on a consent agenda, as well as items such as contracts under \$1,000,000 in an approved budget that have been reviewed by a Council subcommittee, financial (investment and budget) and Capital Improvement Plan (CIP) Reports, minutes and OLCC reports.

B. Any item placed on the consent agenda will be disposed of by a single motion "to adopt the consent agenda" which shall not be debatable.

C. Any member of the Council can remove an item from the consent agenda by voice request prior to the vote to adopt the consent agenda. Any matter removed from the consent agenda will be discussed and considered as an action item at the meeting.

## **2.16 Addressing the Council by Members of the Public**

A. Written Communications. Any person may address the Council in writing.

B. Oral Communications. Any person may speak on any matter on the agenda during a scheduled public comment or hearing after being recognized by the Presiding Officer, except when applicable law or code provisions restrict public comment. The right to speak on a matter is terminated when the public hearing is closed or Council deliberation begins.

C. Visitor's Section. During the visitor's section of the agenda, any person may address the Council on items that are relevant and properly the subject of Council

consideration. An opportunity for public comment may be provided prior to an agenda item, which would then be the preferred time for comment. To respect the business nature of the Council meeting, public comment will be time-limited. In the Presiding Officer's discretion (depending on the number of persons signed up to testify, the length of the agenda, other people in attendance waiting for agenda items, etc.), it will be as listed on the agenda or announced prior to start of the public comment period. For the same reasons, the overall length of time for the Visitor's Section may be limited or moved on the agenda to better facilitate the business meeting.

D. **Public Hearings.** For matters with a noticed public hearing, the only time Council will consider public oral testimony provided to Council is during the public hearing. The Presiding Officer will establish time limitations for testimony from the public and applicant presentations/testimony for the efficient running of the hearing. The right to address the Council does not extend to providing testimony on a matter subject to a public hearing after closure of a public hearing and before the final decision.

E. **Forms.** Each person addressing the Council shall provide the City Recorder with a completed testimony form, including name and contact information.

F. **Remarks to Council as a Whole During Comment/Hearings.** Generally, remarks should be addressed to the Council as a body rather than directed to any particular member. A question may only be asked of a Council member with the permission of the Presiding Officer.

G. **Respectful and Courteous Input at Public Comment/Hearings.** The Council's intent is to be welcoming and inclusive toward all speakers at public meetings, and to create an atmosphere of mutual care and respect. Council meetings often provide an opportunity to provide public input, and for community members to share thoughts and opinions with their elected leaders. However, they are not a time to level personal attacks or threats, disrupt the meeting, use obscene, vulgar, or discriminatory language, or in any way discourage anyone else from participating. While community members may disagree with each other or the City on issues and give critical feedback, they are expected to do so respectfully, in accordance with these rules.

H. **Disruption at Public Meetings.** The Presiding Officer and/or the Mayor Pro Tem may interrupt members of the public speaking to Council if they are engaging in personal attacks, attacks on identity (gender, race, sexuality, etc.) or other discriminatory comments, engaging in accusatory, insulting, offensive or harmful behavior that disrupts the council meeting, or not speaking to the subject matter of a public hearing. A Council member may also ask for a Point of Order or otherwise address such comments if warranted.

Any member of the audience who disrupts a Council meeting may be asked to stop, and if the disruption continues, may be excluded from the meeting (or muted in a virtual meeting) by the Presiding Officer if necessary to maintain order, conduct business efficiently, or allow others the ability to participate. Violations of this rule may be stopped immediately, particularly related to discriminatory or racist comments. The



intent is that such disruption be addressed as efficiently and uniformly as possible.

## **2.17 Motions**

When a motion is made, it should be clearly and concisely stated by its mover. Council members are encouraged to exercise their ability to make motions and to do so prior to debate in order to focus discussion on an issue and speed the Council's proceedings. The Presiding Officer will state the name of the Council member who made the motion and the name of the Council member who made the second. When the Council concurs or agrees to an item that does not require a formal motion, the Presiding Officer will summarize the agreement at the conclusion of discussion. The following rules shall apply to motions during proceedings of the Council:

1. A motion may be withdrawn by the mover at any time without the consent of the Council.
2. If a motion does not receive a second, it dies. Certain motions can proceed without a second, including nominations, withdrawal of motion and agenda order.
3. A motion that receives a tie vote fails.
4. A call for the question is intended to close the debate on the main motion. It is not debatable, requires a second, and a majority vote to pass and cannot interrupt the speaker. Debate on the main subject resumes if the motion fails.
5. A motion to amend can be made to a motion that is on the floor and has been seconded. An amendment is made by inserting or adding, striking out, substituting or any combination of striking out and inserting. The amendment must be relevant to the motion.
6. A motion to adjourn cannot be amended.
7. A friendly amendment should be handled by the chair like any other amendment—with a second and a majority vote.
8. A motion to table refers to setting aside a pending motion to consider more urgent business, or to consider the motion under more favorable circumstances. It cannot interrupt the speaker. It is not debatable and cannot be amended and requires a majority vote. If the motion prevails, the matter may be taken from the table only by adding it to a future agenda at which time discussion may continue.
9. A motion to postpone to a certain time is debatable and amendable. The matter may be considered at the same meeting or a future meeting. A motion to postpone indefinitely is debatable and is not amendable.
10. A motion to reconsider any action taken by the Council may be made only

on the day the action was taken. The motion must be made by a Council member of the prevailing side, but may be seconded by any member.

11. Amendments are voted on first, then the main motion is voted on as amended.

12. Council will discuss a motion only after the motion has been moved and seconded. Nothing in this section prevents general discussion or expression of opinions before a motion is made.

13. The motion maker, Presiding Officer, City Recorder, City Manager or City Attorney should repeat the motion prior to the vote.

14. After a vote on a motion, the Presiding Officer shall announce the result of the vote.

15. A point of order may be made at any time, and does not require a second. Any business, motion, or vote in process at the time a point of order is made shall pause for consideration of the point of order. The Presiding Officer, in consultation with the City Attorney if necessary, shall decide all points of order.

16. Per the City's Charter, the express concurrence of at least four councilors is necessary to decide a question before the council. Thus, even if a quorum is met (with five members present), the vote required to pass an agenda item is four council members.

## **2.18 Question of Procedure**

Questions of procedure not specifically provided for in these Rules, the Bend Code or in the Charter shall be answered by the City Attorney, guided by *Robert's Rules of Order, 11<sup>th</sup> Edition*

## **2.19 Participation and Decorum in Council Meetings**

A. Council members should review materials provided in advance of the meeting and come to the meeting prepared to make difficult decisions when necessary.

B. Council members are expected to practice decorum and civility in discussions and debate. Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of a democracy in action. This does not allow, however, council members to make belligerent, personal, slanderous, threatening, abusive, harmful or disparaging comments.

C. It is the responsibility of the Presiding Officer to keep the comments and debate of the Council on track during public meetings. Council members should honor efforts by the Mayor to focus discussion on current agenda items. The Presiding Officer may apply these rules with enough flexibility to run the meeting effectively and efficiently.

D. Any Council member desiring to be heard during a Council meeting should normally be recognized by the Presiding Officer and shall confine their remarks to the subject under consideration or to be considered.

E. Council members will speak one at a time, allowing one another to finish.

F. A Council member may speak to the question at issue after being recognized by the Presiding Officer.

G. Council members may not delay or interrupt the orderly proceedings of the Council, disturb any member while speaking, or refuse to obey the orders of the Council or its Presiding Officer.

H. A Council member should not be interrupted when speaking except on a question of order. If a point of order is raised, the member should cease speaking until the question of order is determined. A point of order may legitimately be raised if the rules appear to have been broken, and the point needs to be resolved before business can continue. The Presiding Officer will rule on the point.

I. The Presiding Officer retains the right to manage the meeting time and should invite participation by all Council members.

J. The City Council is comprised of individuals with a wide variety of backgrounds, personalities, values, opinions and goals. All have chosen to serve in public office to preserve and protect the present and future of the community. The public stage provided during business meetings is an opportunity to demonstrate how individuals with both different and complementary points of view can make timely decisions, find common ground, and seek compromise, to benefit the entire community.

## **2.20 Mobile Devices; Personal Computers**

A. Mobile devices and personal electronic devices shall be silenced during Council meetings.

B. In deference to the meeting at hand, Councilors should make every effort to refrain from sending or receiving electronic communication of a personal nature during Council meetings, though as volunteers it may sometimes be necessary to send or receive urgent/emergency family or business communications.

## **2.21 Quasi-Judicial Hearings**

A. Procedure. The Presiding Officer, working with the City Manager, City Attorney's Office and Community Development Department, will set procedural requirements for the hearing, including the time limitations for the applicant(s) and time limits for public testimony and rebuttal, consistent with the Development Code procedure for quasi-judicial hearings.

B. Ex Parte Contacts. Council members will endeavor to refrain from having

ex parte contacts relating to any issue of the hearing. Ex parte contacts are any contacts with persons other than staff or other council members outside the formal hearing process relating to the subject matter of the quasi-judicial hearing. Ex parte contacts include both oral and written communication. If a Council member has an ex parte contact prior to any hearing, the Council member will reveal the contact at the beginning of the hearing. The Council member shall describe the substance of the contact. After all declarations of ex parte contacts, the Presiding Officer shall announce the right of interested persons to rebut the substance of the communication or otherwise challenge the participation of the Council member who had the ex parte contact.

C. Non-participation. A Council member will not participate in a quasi-judicial decision if the Council member is biased or has prejudged the application to the extent that the Council member cannot decide the matter by applying the applicable standards and criteria to the facts of the situation as presented to the Council. A Council member shall not participate in any quasi-judicial matter in which the Council member has a personal interest in the outcome, unless that personal interest is shared by a class of persons. A Council member shall not participate in any decision when participation in the decision is contrary to state law. Any person may challenge the participation of a Council member at the start of the proceeding. If a challenge is made, the Council member may choose to withdraw. If the Council member does not withdraw, the remainder of the Council will decide by motion whether the Council member will participate. A Council member who is not participating shall not sit at the Council table.

## **2.22 Exhibits**

Exhibits presented before the Council in connection with its deliberations on a legislative, quasi-judicial or other substantive matter shall be accepted by the Council and made part of the record. The exhibit shall be provided to the City Recorder.

## **2.23 Minutes**

A. Minutes shall be prepared with sufficient detail to meet their intended uses. Verbatim minutes are not required.

B. Council meeting minutes shall contain:

1. The name of Council members present.
2. All motions, proposals, resolutions, orders, ordinances and measures proposed and their disposition.
3. The result of any votes, including ayes and nays and the names of the Council members who voted.
4. The substance of the discussion on any matter.
5. Reference to any document discussed at the meeting.

C. The Council may amend the minutes to more accurately reflect what transpired at a meeting. Upon receipt of the minutes in the Council agenda packet, the Council members should read them and if possible submit any changes, additions or corrections to the City Recorder in order that the recording of the meeting can be reviewed and a corrected copy can be prepared prior to the meeting for approval. Under no circumstances shall the minutes be changed following approval by the Council, unless the Council authorizes the change by majority vote.

D. Council members have the right to have the reasons for their dissent from, or protest against, any action of the Council entered into the minutes.

E. These same rules should generally apply to minutes for Council appointed committees.

## **2.24 Council Subcommittees**

The Council may from time to time create ad hoc or standing subcommittees of Councilors. The Mayor and City Manager shall prepare agendas for the subcommittee meetings, with direction from Council.

## **2.25 Executive Sessions and News Media**

A. Representatives of the news media shall be allowed to attend executive sessions other than those held under subsection (2)(d) of this section relating to labor negotiations or executive session held pursuant to ORS 332.061 (2) but the City may require that specified information be undisclosed.

B. Currently Recognized News Media Organizations. The following entities are recognized as news media organizations eligible to attend executive sessions because they have an established history of meeting the requirements of this policy:

The Bulletin	KLCC
The Source Weekly	Bend Radio Group
Cascade Business Journal	Combined Communications
Cascade Business News	Oregon Public Broadcasting
Central Oregon Daily News	The Oregonian
COTV	KPOV
KTVZ Television	KBNZ
KOHD Television	Horizon Broadcasting
KEZI Television	

No other entity shall be permitted to attend an executive session unless it is recognized through the process described in Section C below.

C. Recognition of Other News Media Organizations.

1. The following entities are recognized as news media organizations eligible to attend executive sessions:

- i. A general or associate member newspaper of the Oregon Newspaper Publishers Association, a broadcast member of the Oregon Association of Broadcasters or a member of the Associated Press; or
- ii. A newspaper that the City uses for publication of public notices and that meets the requirements of ORS 193.020; or
- iii. An entity recognized by the City as being a news source that:
  - a. Is organized and operated to regularly and continuously publish, broadcast, transmit via the Internet or otherwise disseminate news to the public, and that regularly reports on activities of the [public body] or matters of the nature under consideration by the [public body]; and
  - b. Is a well-established entity that is committed to complying with the requirement that confidential executive session information be undisclosed. In making this determination, the City may consider and weigh any factors that it deems to be relevant, including whether the entity has an available process for correcting errors, including violations of executive session statutes, by a person with authority to take corrective measures.

2. The entity seeking recognition as a News Media Organization has the burden of proof to establish that it meets the standards of this section. A determination that the entity is not recognized shall be based upon written findings addressing the criteria in this section.

D. Attendance at Executive Sessions. Representatives of recognized News Media Organizations may attend executive sessions if State law requires the City to allow their attendance.

1. In making its determination whether to recognize the person as a representative of the news media organization, the City may require:
  - i. A press badge or identification issued by the recognized news media organization, plus proof of identity (such as a driver's license); or
  - ii. A recently published news article in the recognized news media organization publication or broadcast, with the person's byline, or a masthead showing the person's name as a member of the news gathering staff of the news media organization, plus proof of identity; or
  - iii. A letter on letterhead from an editor of the recognized news media

organization in which the editor states that the reporter is covering the meeting for the news media organization, plus proof of identity.

2. Representatives of the news media are not permitted to attend executive sessions involving deliberations with persons designated to carry on labor negotiations. ORS 192.660(4). If the executive session is being held for the purpose of conferring with counsel about current litigation or litigation likely to be filed, the City shall exclude any member of the news media from attending if the member is a party to the litigation to be discussed or is an employee, agent or contractor of a news media organization that is a party to the litigation. ORS 192.660(5).

3. The City may require that a request to attend an executive session be made in writing on a form provided by the City. The form shall require disclosure of the person's name, and the entity for which he or she is a news reporter, and shall require submission of evidence described in Subsections 3(a) (1), (2) or (3) of this policy. The form shall also include a certification that the person is gathering news for a recognized news media organization, that the information given is true and that the person agrees to comply with ORS 192.660(4).

4. The City may consider any relevant evidence provided or gathered in making its decision as to whether a person shall be recognized as a representative of a recognized news media organization.

E. Recording Devices Prohibited. Cameras, tape recorders and other recording devices shall not be used in executive sessions, except for the official executive session recording made by City staff.

F. Exclusion Based on a Direct Personal Interest. A person who has a direct personal interest in the subject of the executive session may be barred from attending.

G. Application to Boards and Commissions. These policies and procedures for executive sessions shall apply to the City and all of its boards and commissions.

### **SECTION 3. COUNCIL COMMITTEES, COMMISSIONS, BOARDS AND TASK FORCES**

#### **3.1 Liaison to Boards, Commissions and Committees**

A. The Mayor will appoint a Council member and an alternate to act as liaisons to boards, commissions, committees or other bodies that advise the Council. Councilors interested in a particular subject area should inform the Mayor of their interest. The Mayor should take the expression of interest and/or a Councilor's preference into account when making appointment decisions when possible. Liaison appointments are generally made on an annual basis.

B. Council liaisons should make every effort to attend all meetings of the

committees, boards and commissions to which they have been appointed. In the event a Council liaison is unable to attend a meeting of the board, commission or committee, the liaison will contact the appointed alternate to act as liaison for the meeting. If a liaison fails to attend more than three consecutive meetings of the same committee, commission or board, without being excused or finding a replacement, they may be replaced with another Council member.

C. When serving as a liaison to a City Council board, commission or committee or City Manager committee as liaison, Council members will:

1. Reflect the majority position held by the Council on matters referred to the board, commission or committee in an effort to maintain alignment with council goals, work plans and specific project objectives. The liaison's role is limited to facilitating the work of the body by explaining that position or Council expectations for the body, and to informing the body of Council decisions that may be of interest to that board, committee or commission.
2. Not initiate, propose or advocate for their personal policy position on a matter before the board, commission or committee, or attempt to direct debate, lobby, or otherwise influence the direction or decision-making process of the board, committee or commission. . It is important for the advisory body to make objective recommendations to the Council on items before them.
3. Represent the City positively and promote constructive relationships with community volunteers and city partners.
4. Not vote at the body's meeting on any item.
5. Periodically report to the entire Council on significant and important activities of each committee, board or commission to which they have been assigned.

D. A Councilor who is not the appointed liaison to an advisory board, commission, or committee, may attend the board, commission, or committee meetings, but their participation should also be consistent with (C) of this rule.

E. Any Council member (whether a liaison or not) may freely share lived experience, or seek to inform through relevant personal knowledge, with a board, commission or committee, without violating this rule.

F. This rule and any restrictions in this rule do not apply when a Council member is a member of the board, commission or committee and do not apply to non-city bodies when the Council member is the representative of the City. It also does not apply when to boards, committees or commissions that are not advisory to the City Council.



## **SECTION 4. COUNCIL RELATIONS AND COMMUNICATIONS**

### **4.1 Communication with Staff**

A. All Council members will respect the separation between the Council's role and the City Manager's responsibilities by:

1. Not interfering with the day-to-day administration of City business, which is the responsibility of the City Manager.
2. Working together as a team within a spirit of mutual confidence and support. Support the goal of mutual confidence and respect with staff (e.g., compliment staff members when they make a good presentation); be friendly and courteous. Attend staff occasions when available.
3. Respecting the administrative functions of the City Manager and department heads and refraining from actions that would undermine the authority of the City Manager or department heads. The Council will abide by the City Charter in its dealings with the City Manager.
4. Limiting individual inquiries and requests for information from staff or department heads to those questions that may be answered readily as part of staff's day-to-day responsibilities. Questions of a more complex nature will be directed to the City Manager. Questions from individual Council members requiring significant staff time or resources (two hours or more) should normally require approval of the Council, although the City Manager may determine to follow up on requests from individual Councilors. Council members should normally share any information obtained from staff with the entire Council. This section is not intended to apply to questions by Council members acting in their individual capacity rather than as Council members, nor to questions regarding conflict of interest or similar issues particular to the Council member.
5. Limiting individual contacts with City officers and employees so as to not influence staff decisions or recommendations, not interfere with staff work performance, and to not undermine the authority of the City Manager, department heads and other managerial and supervisory employees.
6. Respecting staff and their roles and responsibilities, even if expressing criticism of an action. Council members should not express concerns about the performance of a city employee in public or to the employee directly. Comments about staff performance should be made to the City Manager or through the City Attorney in private communication.
7. Nothing in this section or these rules precludes Council members from obtaining information and asking questions during Council meetings or from evaluating the performance of the City Manager.

8. Requests to the City Attorney for advice requiring extensive legal research shall not be made by an individual Council member except with the concurrence of the majority of the Council.

#### **4.2 General Guidelines for Effective, Respectful Councils**

A. In general, Council members shall conduct themselves so as to bring credit upon the government of the City by respecting the rule of law, ensuring non-discriminatory delivery of public services and keeping informed concerning the matters coming before the Council.

B. Council members must abide by all decisions of the Council, whether or not the member voted on the prevailing side.

C. Abiding by decisions of the Council does not preclude a Council member from advocating for repeal or amendment of the decision.

D. Council members should treat other council members, board/committee/commission members, staff and the public with patience, courtesy and civility, even when they disagree on what is best for the community. This can be done by seeking to communicate clearly, directly and respectfully, focusing on problems and solutions, not people.

E. Council members are encouraged to honestly share concerns and opinions with each other. Personal comments or actions that are intended, or could reasonably be construed, to harm other members, staff or community members are best avoided. Council members should expect to be held accountable for such words or actions. The Mayor Pro Tem may take an active role, upon request, in facilitating or mediating conflict or harm caused by and between Council members. Council can also consider working with a mediator if additional steps are needed.

F. Council members should promote meaningful public involvement in decision-making processes. This includes being welcoming to speakers and treating them with respect by giving them full attention demonstrated by eye contact and active listening; comments, questions, and non-verbal expressions should be appropriate, respectful and professional. For many community members, speaking in front of the council is a new and difficult experience.

G. Council members should contribute to a strong organization that exemplifies transparency, including by making independent, objective, fair and impartial judgments, and avoiding relationships and transactions that give the appearance of compromising objectivity, independence, and honesty.

#### **4.3 Communication on behalf of the City or the Council**

A. If a member of the Council, including the Mayor, appears as a representative of the City before another governmental agency, the media, or an

organization, or in any forum, to give a statement on an issue, the member may only state the official position of the City, as approved by a majority of the Council, to the extent such position is known and articulated.

B. If a member of the Council, including the Mayor, appears before another governmental agency, the media, an organization, or in any forum, to give a statement on an issue on which a majority of Council has not approved a position, the member must state they are expressing their own opinion and not that of the City before giving their statement.

C. Council members are frequently asked to explain a council action or give their opinion about an issue as they meet and talk with community members. It is appropriate to give a brief overview. However, Council members should never impliedly or expressly promise Council or staff action or make any admissions of fault or responsibility on behalf of the City.

#### **4.4 Confidentiality; Confidential Matters**

A. Council members will keep confidential materials, such as materials distributed in executive session and confidential legal memoranda provided by the City Attorney, in complete confidence to ensure that the City's position is not compromised. No mention of confidential information read or heard should be made to anyone other than other Council members, the City Manager, or responsible department heads unless the Council as a whole has decided to waive the privilege to keep the material confidential.

B. If the Council in executive session provides direction or consensus to staff on proposed terms and conditions for any type of negotiation whether it be related to property acquisition or disposal, pending or likely claim or litigation, or employee negotiations, all contact with other parties shall be made by designated staff or representatives handling the negotiations or litigation. A Council member will not communicate any executive session discussion outside of the executive session except as authorized by Council.

C. All public statements, information, or press releases relating to a confidential matter will be handled by designated staff or the Mayor or a designated Council member.

D. Council members should take appropriate safeguards to protect confidential information and records, including materials that come to a Council member's City email address or inbox, or written materials that are confidential. A Council member may solicit the assistance or hire another person to handle email responses or other Council matters, but must take steps to ensure confidential materials, including attorney client materials from the City Attorney's office, are not accessible to that person. The City's IT and legal departments are available to help Council members comply with this rule, as they seek to manage the vast amounts of information they receive.

E. Confidential information may be disclosed or otherwise released to the public upon a consensus determination by the entire Council that confidentiality is no longer necessary.

## **SECTION 5. PUBLIC RECORDS AND MEETINGS ACT COMPLIANCE**

Communication between Council members, regardless of format, in person, by phone and including through social media, text or email, may constitute a “meeting” under the Public Meetings Law if involving the discussion of public business subject to open meetings laws and a majority of Council members are included on the communication or the communication is through serial discussion. Council members must comply with the Public Meetings Law in discussing public business with each other outside of Council meetings, including through social media, texting and email, or in commenting or posting on each other’s City-related social media pages. For this reason, Council members are discouraged from discussing public business with each other outside of Council meetings, including through social media and email, and from commenting or posting on each other’s social media pages. When in doubt, a Councilor should refrain from doing so.

Any record relating to the public business of the City may be subject to disclosure under the Oregon Public Records Act, including text messages or emails on a Councilor’s personal device or e-mail address. Councilors are responsible for maintaining their own records and assisting the City Recorder and City Attorney in responding to public records requests.

Council members are responsible for complying with the law and rules related to records retention for any public records that are not City-retained records (city emails, documents, etc.). The City may provide access to the City’s social media archiving account to allow Councilors, at their discretion, to more easily ensure that they are complying with the public records retention laws.

In addition, specific rules apply to communications in quasi-judicial proceedings when a council member is or may be a decision-maker. Council members are advised to consult with the City Attorney’s office and avoid ex parte communications outside the record (with some exceptions, such as informational questions to staff).

## **SECTION 6. LEGAL REVIEW AND LITIGATION**

### **6.1 Ordinances and Resolutions**

A. All ordinances and resolutions must be reviewed as to form and legality by the City Attorney. No ordinance or resolution will be presented to the Council without review by the City Manager and the City Attorney.

B. Legislative authority is properly exercised in the form of ordinances, which are usually used to add, amend, or repeal sections of the city’s code. Formal action is required to enact an ordinance, and compliance with City Charter. The following procedure will be followed for adoption of ordinances.

1. The Council will vote on a motion for the first reading of a proposed ordinance.
2. At the next meeting (at least ten days between the first and second reading), the Council will vote on a motion for second reading and adoption of the ordinance.
3. All ordinances will take effect 30 days after the roll call vote on an ordinance unless an emergency has been declared.

C. Resolutions will be adopted by a motion and majority vote. Resolutions take effect immediately upon passage unless otherwise stated in the resolution. Resolutions are non-legislative, although they may set forth council policy. They generally are intended for matters that implement the requirements of city ordinances or state statutes, or deal with matters that are temporary or special. Examples include fees and charges, city budgets, budget amendments, financial transfers, adoption of an official position on regional, state or global matters, or statements of non-regulatory city positions.

D. A resolution is effective until its purpose is accomplished, or where the resolution adopts rules or a program of an ongoing nature, until the resolution is amended by another resolution or by an ordinance

## **6.2 Litigation**

The Council will meet in executive session with the City Manager and City Attorney within 30 days of the City's receipt of:

1. A statutory notice of intent to sue, or
2. A summons and complaint for damages.

This requirement does not apply to cases in which the claim is covered by insurance.

## **SECTION 7. GOAL SETTING**

The Council will align its goal setting process to coincide with the development of a biennial budget. The process will begin in January of odd numbered years with the Mayor and City Manager as key facilitators throughout the process. At a minimum, the goal setting process will include the following elements:

1. Input from interested parties, including but not limited to City Boards and Commissions, Neighborhood Associations, and Ad Hoc Committees formed by Council.
  - a. Input should be guided by the committee's charge as articulated in City Code; and

- b. Council may elect to provide additional direction on input based on preliminary scoping of goals.
2. Input from City staff and Councilors, including:
  - a. A SWOT (Strengths, Weaknesses, Opportunities, and Threats) analysis based on status of key projects, financial overview, regulatory context, and status of prior Council Goals and Objectives; and
  - b. Mayor or designee interviews with individual Councilors.
3. A one to two day retreat with the objective of:
  - a. Distilling input received into themes;
  - b. Developing goals based on themes;
  - c. Creating objectives to guide staff work; and
  - d. Creating performance metrics for each goal.
4. Council adoption of Goals at a regular business meeting prior to March 31.
5. A proposed two-year Work Plan developed by the City Manager that is presented with the proposed biennial budget no later than May 15. The work plan and associated budget will include:
  - a. Proposed strategies and action items;
  - b. A summary of resources including budget and staffing needs to complete approved Council goals; and
  - c. A risk analysis, if appropriate.
6. A comprehensive review of Council Goals, Objectives and Work Plan will be considered during the budget deliberation process.
7. Final approval of the staff Work Plan will occur with the adoption of the biennial budget no later than June 30.
8. The status of Council Goals, Objectives and Work Plan, including performance metrics and other measures of progress will be reviewed:
  - a. During quarterly check in meetings with City Boards, Commissions, and Committees;
  - b. In the Weekly Council Memo;
  - c. During City Manager Reports at Council meetings as needed; and

- d. During the City Manager annual performance review.

## **SECTION 8. SOCIAL MEDIA POLICY FOR ELECTED OFFICIALS**

### **8.1 Purpose**

The City maintains an official City website and other official social media, and has adopted a policy related to such media, which does not apply to Elected Officials.

This policy outlines the roles, responsibilities, and best practice recommendations for use of social media by the City's elected officials ("Council members"), when they may be using personal or professional social media, outside of the City's website or other official social media, to communicate in their official capacity, including as a means to disseminate information or provide for engagement with constituents. It is primarily each Council member's responsibility to ensure compliance with this Policy.

### **8.2 Definitions**

A. Social media: any digital platform that allows the user to create and share information, ideas or questions with other users or audiences. Social media channels include but are not necessarily limited to Facebook, Twitter, Instagram, Pinterest, and others.

B. Post: any content generated or shared on social media presences. Posts can include, but are not limited to, messages, links, images, maps, videos and emoticons.

C. Content: the text, messages, maps, links, photos or videos used in a post.

D. Comment: a post made in response to a post or another comment.

E. Political Advocacy: only that political advocacy restricted by ORS 260.432: supporting or opposing ballot measures, candidates, recalls, political committees, or petitions. Supporting or opposing political issues which do not fall into any of these categories is not restricted by the statute or this policy.

### **8.3 Public Records Act Compliance**

Any content maintained in social media format that is related to City business, including communication between an individual Council member and constituents or the general public, or a site's listing of "friends" or "followers," may be considered a public record subject to disclosure under the Oregon Public Records Act.

Council members must maintain records for any required retention period, either on their own or through an archiving account. The City will provide Council members with the ability to sign up to archive social media accounts through the City's Archive Social account (or other City retention service). This does not suggest that the City manages or oversees the accounts; it is being offered as an administrative support service for

Council members who choose this option. In the event of a public records request, each Council member has access to their own archived accounts to generate their own searches, and export reports. System administrators will also have access to all records.

#### **8.4 Open Meetings Act Compliance**

Communication between Council members via social media, as with email, may constitute a “meeting” under the Open Public Meetings Act if involving the discussion of public business subject to open meetings laws. For this reason, Council members are discouraged from commenting or posting on each other’s social media pages.

In addition, receiving or making comments regarding quasi-judicial matters via social media may violate the Council Rules for Quasi-Judicial proceedings. Councilors are encouraged to exercise caution in inviting any comments related to land use proceedings that may include a quasi-judicial matter, and to refrain from making comments on any pending application. Council members should also be cognizant that any statements they make on an issue that involves or eventually involves a quasi-judicial proceeding could be raised as evidence of bias, prejudgment, or personal interest that the Council member would then be obligated to address in response to a challenge on that basis.

#### **8.5 Link to City Website**

A social media site used by a Council member to communicate with a constituent on City business should include a link back to the City’s official website for detailed information as stated in Section 8.8(3) below.

#### **8.6 Political Advocacy and Campaigning**

Council members who use social media for political advocacy may not request public employees on the job or in an official capacity to engage in political advocacy, including by editing, reviewing, or creating political advocacy content. Council members are permitted to use their social media sites for campaign activities, including for soliciting donations, such as by including a link to a campaign or donation site, however it is recommended that members maintain separate accounts for campaigning, official communications, and personal business.

#### **8.7 Blocking**

If a Council member uses social media in their official capacity for communication with constituents, they may be creating a limited public forum subject to First Amendment speech protections. Therefore, Council members will not deny access to social media to any individual based in whole or in part on content or viewpoint, which includes disagreement with or opposition to the Council member or their viewpoints.



## **8.8 Notice**

Any Council member who uses social media for City business should include a notice on his or her platform stating the following:

1. This page expresses the personal opinions of the Councilor. It is not the official page for the City of Bend and does not represent the position of the City of Bend.
2. All content submitted by members of the public may be subject to public disclosure to third parties under Oregon Public Records law.
3. For detailed information on City business please refer to the City's official website: <http://www.bendoregon.gov/>
4. [Elected Official] does not discriminate against speech based on content or viewpoint. However, comments should relate to the post and issue being discussed regarding the functions, services, activities, issues, operations and projects of City business. Once comments are posted, [the Elected Official] reserves the right to determine which submissions are unacceptable for its page and delete or hide them, including those that contain profane or obscene language, personal attacks of any kind, or language or content that targets, disparages or discriminates against individuals or groups based on race, ethnicity, religion, color, gender, age, sexual orientation, mental or physical disability, gender identity, national origin or other protected status under applicable law. Further, [the Elected Official reserves] the right to delete comments that: (i) are spam or include links to other sites; (ii) are clearly off topic; (iii) advocate illegal activity; (iv) promote particular services, products or political organizations; (v) infringe on copyrights or trademarks; (vi) contain solicitations of commerce or charitable or other contributions, except for official City-sponsored activities; or (vii) contain misinformation. [The Elected Official] reserves the right to turn off the ability for people to comment on a post.

## **9. COUNCIL VACANCY PROCEDURE**

### **9.1 Charter**

Under Section 21 of the City's Charter a vacancy can be created in a variety of ways, the most common being a council resignation after being elected to another office (state legislator or elected mayor), although as set forth in the Charter there are other reasons a vacancy can be created.

Upon the declaration of a vacancy, per the Charter, a "vacancy in the council shall be filled within 30 days by appointment by the council. If the council does not fill the vacancy by an appointment within 30 days, then the vacancy shall be filled at the next available election as provided by state law, provided that election is before the expiration of the term of the predecessor councilor who left the office vacant." (Section 22(1)). The term of the appointed person begins when the appointee qualifies for the

office after the appointment, and expires at the end of the term of predecessor council member, or at the annual meeting immediately after the next general election, whichever happens first. (Section 22(2)).

Per the Charter, “a vacancy in the office of the mayor or mayor pro-tem shall be filled by appointment by a majority of the council, with the term of such appointment to expire at the time a mayor is elected and assumes the duties of the office, as provided in Section 22(2), or at the time a mayor pro-tem is to be appointed by the council, as provided in Section 9. Appointment of a sitting councilor to fill a vacancy in the office of mayor or mayor pro-tem shall not extend the term of a councilor appointed to fill the vacancy. Appointment of a sitting councilor to fill a vacancy in the office of mayor shall create a vacancy in the councilor’s former seat, to be filled as provided [above]”.

## **9.2 Procedure**

In the event of a vacancy on the Council, which the City Council is seeking to fill within thirty days pursuant to Section 22 of the City’s Charter, the following recruitment and appointment process will be observed, through noticed public meetings:

1. Mayoral Appointment. In the event of a mayoral vacancy, the remaining members of Council will first consider appointing a current member of the Council to the position. If no member of the Council desires to be considered or is selected for the position, the recruitment and appointment process for the Mayor will follow the vacancy procedure outlined below.
2. Council Member Appointment. In the event of a Council member vacancy, the Council will follow the recruitment and appointment process and vacancy procedure outlined below.
3. Recruitment Process. Notice of the recruitment will be advertised through the use of a news release, the City website, available City publications, City social media channels, Neighborhood Associations, distributed to local media outlets, and any other outreach the City deems helpful to reaching a broad and diverse spectrum of community members who might be interested in applying.
4. Application Process. Candidates will be invited to complete a standard application with questions developed by the City Council together with the City Manager and City Recorder. Questions will be developed either at a public meeting and/or through individual Councilor feedback to the City Manager. Applicants will be given the option to include a cover letter and resume. Application materials are considered public records.
5. Interview Process (which may take place over multiple meetings). All applicants will be invited to be interviewed for the available position, unless ten or more applications are received.
  - a. If ten or more applications are received, the Council will discuss the

desirability of screening the applications and narrowing the interview list to the top candidates based on their written applications.

- i. If the Council opts to narrow the list, a motion and a vote may be held for the Mayor to appoint a 3-member Council subcommittee to review the applications and recommend a list of candidates for the entire Council to interview.
  - b. Applications from those selected to interview will be published with the Council meeting packet for a regular or special public meeting.
  - c. Candidates will be interviewed separately; those waiting for interviews will be asked to remain outside the room.
  - d. All candidates will be asked the same interview questions; follow-up questions to clarify answers are permitted.
6. Voting process. After the conclusion of interviews, and any debate and discussion, the Council will vote using the process outlined below (which may take place over multiple meetings):
  - a. Each member of Council will complete a ballot ranking the candidates in order of their preference for first, second, and third choice. Under-voting is not permitted. The ballots are tabulated. If one candidate receives a majority of first choice votes, they are instantly the winner. Ballots are considered public records.
  - b. If no candidate receives a majority of first choice votes a second ballot will be held. The top three vote-getters according to the preferences listed on the ballots advance to the second ballot; the candidate(s) who received the fewest first choice votes are eliminated. For the second ballot, each member of Council will vote for their first and second choice candidate. If one candidate receives a majority of first choice votes on the second ballot, they are instantly the winner.
  - c. If no candidate receives a majority of first choice votes in the second ballot round, the top two vote getters will advance to a third and ballot. For the third ballot, each member of Council will vote for their first choice candidate. If one candidate receives the majority of votes on the third ballot, they are instantly the winner.
  - d. If there is a tie after three ballots, Council can choose to do additional ballots at the same meeting or at another noticed public meeting.

At the conclusion of balloting, if successful, the Council will then make a motion and hold a vote to appoint the final candidate to the vacant position.

7. Election. If Council is unable to reach a decision within the 30-day time period, the filling of the vacancy instead goes to the next available election. The filing period shall be thirty days.

## **SECTION 10. VIOLATION OF COUNCIL RULES**

### **10.1 Censure**

A. The Council may enforce these rules and ensure compliance with City ordinances, charter and state laws applicable to governing bodies. If a member of Council violates these rules, including by disclosing a confidential matter, City ordinances, the City Charter or state laws applicable to governing bodies, the Council may take action to protect the integrity of the Council.

B. The Council may investigate the actions of any member of Council and meet in executive session under ORS 192.660(2)(b) to discuss any finding that reasonable grounds exist that a violation of these rules, local ordinance, the City Charter or state laws applicable to governing bodies has occurred. Sufficient notice must be given to the affected member to afford them the opportunity to request an open hearing under ORS 192.660(2)(b).

C. Sanctions for violation of these rules should be generally geared towards changing problem behavior than punitive in nature, and measured against the severity and frequency of the violation(s) and the impacts on the City organization and/or Council operations and effectiveness. A Council member who intentionally or repeatedly fails to comply with established Council rules may be sanctioned under this section, including a public reprimand, or removal for certain enumerated reasons in the City Charter (following notice and a public hearing).