

Suggested Rules of Procedure for a City Council

Part I. Applicability

Rule 1. Applicability of Rules

These rules apply to all meetings of the Kill Devil Hills City Council.¹ For purposes of these rules, a meeting of the council occurs whenever a majority of the council's members gather, whether in person or simultaneously by electronic means, to conduct hearings, deliberate, vote, or otherwise transact public business within the council's real or apparent jurisdiction. The term "majority" as used here and elsewhere in these rules means, unless otherwise specified, a simple majority, that is, more than half.

Part II. Quorum

Rule 2. Quorum

The presence of a quorum is necessary for the council to conduct business. A majority of the council's actual membership plus the mayor, excluding vacant seats, constitutes a quorum. A member who withdraws from a meeting without being excused by majority vote of the remaining members in attendance is deemed present for quorum purposes.

4 Council Seats

1 Voting Mayor

5 total – quorum = 3

Part III. Open Meetings

Rule 3. Remote Participation in Council Meetings

No member who is not physically present for a council meeting may participate in the meeting by electronic means except in accordance with a policy adopted by the council. [Although a member who attends a meeting electronically pursuant to such a policy may take part in debate, the member may neither be counted toward a quorum nor vote on any matter before the council.]

Rule 4. Meetings to Be Open to the Public

Except as permitted by Rule 5, all meetings of the council shall be open to the public, and any person may attend its meetings.

Rule 5. Closed Sessions

(a) Motion to Enter Closed Session. The city council may enter a closed session from which the public

¹ In North Carolina, the legal status and authority of a municipality is the same, regardless of whether it is denominated a city, town, or village. *See* G.S. 160A-1(2) (defining the term "city" as used in Chapter 160A to mean "a municipal corporation . . . having the powers, duties, privileges, and immunities conferred by law on cities, towns, and villages"). The same is true of a municipal governing board, which may be known as a council, board of aldermen, or board of commissioners. *See* G.S. 160A-1(3) (noting that the term "council" as used in Chapter 160A is interchangeable with the terms "board of aldermen" and "board of commissioners"). These rules employ the term "city council" for the sake of convenience and in deference to the terminology found in Chapter 160A, the primary statutes governing municipal corporations. Obviously, if the governing board of a town or village is adopting these rules, it will need to modify the terminology used to fit its situation.

is excluded only upon a motion duly made and adopted in open session. The motion to enter closed session must cite one or more of the permissible bases for closed session listed in paragraph (b) of this rule. A motion to enter closed session under subparagraph (b)(1) or (b)(2) must contain the additional information specified in those provisions.

(b) Bases for Closed Session. A closed session is permissible under the following circumstances and no others:

- (1) To prevent the disclosure of information that is privileged or confidential pursuant to the law of North Carolina or of the United States or that does not constitute a public record within the meaning of Chapter 132 of the General Statutes. The motion to enter closed session must name or cite the law that renders the information confidential or privileged.
- (2) To consult with the city attorney or another attorney employed or retained by the city in order to preserve the attorney–client privilege. If the council expects to discuss a pending lawsuit with its attorney, the motion to enter closed session must include the names of the parties to the lawsuit.
- (3) To discuss matters relating to (a) the location or expansion of industries or other businesses in the area served by the city or (b) the closure or realignment of a military installation. The council may reach agreement in closed session on a tentative list of economic development incentives to be offered in negotiations, but the approval of the signing of any economic development contract or commitment and the authorization of the payment of economic development expenditures must take place in open session.
- (4) To establish or instruct staff or agents concerning the city’s position in negotiating the price or other material terms of an agreement for the acquisition of real property by purchase, exchange, or lease.
- (5) To establish or instruct staff or agents concerning the amount of compensation or other material terms of an employment contract.
- (6) To consider the qualifications, competence, performance, character, fitness, or conditions of appointment or employment of a public officer or employee or prospective public officer or employee, except when the individual in question is a member of the city council or other public body or is being considered to fill a vacancy on the city council or other public body. Final action to appoint or employ a public officer or employee must take place in open session.
- (7) To hear or investigate a charge or complaint by or against a public officer or employee. Final action discharging an employee or removing an officer must occur in open session.
- (8) To plan, conduct, or hear reports concerning investigations of alleged criminal misconduct.
- (9) To view a law enforcement recording released pursuant to G.S. 132-1.4A.
- (10) On any other basis permitted by law.

(c) Closed Session Participants. Unless the council directs otherwise, the city manager, city attorney, and city clerk may attend closed sessions of the council. No other person may attend a closed session unless invited by majority vote of the council.

(d) Motion to Return to Open Session. Upon completing its closed session business, the council shall end the closed session by adopting a duly made motion to return to open session.

Rule 6. Meeting Minutes

(a) Minutes Required for All Meetings. The council must keep full and accurate minutes of all of its

meetings, including closed sessions. To be “full and accurate,” minutes must record all actions taken by the council. They should set out the precise wording of each motion and make it possible to determine the number of votes cast for and against each motion. The minutes need not record discussions of the council, though the council in its discretion may decide to incorporate such details into the minutes.

(b) Record of “Ayes” and “Noes.” At the request of any member of the council, the minutes shall list each member by name and record how each member voted on a particular matter.

(c) General Accounts of Closed Sessions. In addition to minutes, the council must keep a general account of each closed session. The general account must be sufficiently detailed to provide a person not in attendance with a reasonable understanding of what transpired. The council may combine the minutes and general account of a closed session into one document, so long as the document contains both a complete record of actions taken and the level of detail required for a general account.

(d) Sealing Closed Session Records. Minutes and general accounts of closed sessions shall be sealed until unsealed by order of the council or, if the council delegates the authority to unseal to one or more staff members, in accordance with guidelines adopted by the council. The sealed minutes and general account of any closed session may be withheld from public inspection so long as public inspection would frustrate the purpose(s) of the closed session.

Rule 7. Broadcasting and Recording Meetings

(a) Right to Broadcast and Record. Any person may photograph, film, tape-record, or otherwise reproduce any part of a council meeting that must take place in open session. Except as provided in paragraph (c) of this rule, any radio or television station may broadcast any such part of a council meeting.

(b) Advance Notice. Any radio or television station that plans to broadcast any portion of a council meeting shall so notify the [city clerk/city manager/administrator] no later than [twenty-four hours] before the meeting. The failure to provide notice is not, by itself, grounds for preventing the broadcast of a council meeting.

(c) Equipment Placement. The [city manager/administrator] may regulate the placement and use of camera or recording equipment in order to prevent undue interference with a council meeting, so long as he or she allows the equipment to be placed where it can carry out its intended function. If the [city manager/administrator] determines in good faith that the equipment and personnel necessary to broadcast, photograph, or record the meeting cannot be accommodated without undue interference to the meeting, and an adequate alternative meeting room is not readily available, the [city manager/administrator] may require the pooling of the equipment and the personnel operating it.

(d) Alternative Meeting Site. If the news media request an alternative meeting site to accommodate news coverage, and the council grants the request, the news media making the request shall pay the costs incurred by the city in securing an alternative meeting site.

Part IV. Organization of the Council

Rule 8. Organizational Meeting; Selection of [Mayor and] Mayor Pro Tempore

(a) Scheduling Organizational Meeting. The council must hold an organizational meeting following each general election in which council members are elected. The organizational meeting must be held either (1) on the date and at the time of the council’s first regular meeting in December following the election or (2) at an earlier date, if any, set by the incumbent council. The organizational meeting may not be held before municipal election results are officially determined, certified, and published as re-

quired by law.

(b) Oath of Office. As the first order of business at the organizational meeting, all newly elected members of the council must take and subscribe the oath of office set out in Article VI, Section 7, of the North Carolina Constitution. Each member's oath must be filed with the city clerk. Although a member who is not present for the organizational meeting may take the oath of office at another time, every member must take, subscribe, and file the oath before he or she begins performing any of the duties of the member's office.

(c) Selection of [Mayor and] Mayor Pro Tempore. As the second order of business at the organizational meeting, the council shall elect from among its members [a mayor and] a mayor pro tempore using the procedures specified in Rule 38. [The mayor shall serve for [a certain term] [at the pleasure of the council]]. The mayor pro tempore shall [likewise] serve at the council's pleasure.

Part V. Types of Meetings

Rule 9. Regular Meetings

(a) Regular Meeting Schedule. The council shall hold a regular meeting on the Second Monday and Fourth Wednesday of each month, except that if a regular meeting day is a legal holiday, the meeting shall be held on the next business day, or unless otherwise adopted in the annual meeting schedule. The meeting shall be held at the Meeting Room at the Administration Building, 102 Town Hall Drive, off Colington Road, Kill Devil Hills and begin at 6:00 p.m. The council shall adopt an annual meeting schedule each year consistent with this rule, which may be amended. A copy of the council's current meeting schedule shall be filed with the city clerk and shall be posted at the Town Hall and on the Kill Devil Hills website www.kdhnc.com.

(b) Change to Meeting Schedule. Notwithstanding paragraph (a) of this rule, the council may amend its regular meeting schedule to add or delete meetings or to change the date, time, or location of one or more meetings on the schedule. The amended schedule shall be filed with the city clerk at least seven (7) calendar days before the day of the first meeting held pursuant to the revised schedule [and posted on the city's website].

Rule 10. Special Meetings

(a) Calling Special Meetings. A special meeting of the council may be called by the mayor, the mayor pro tempore, or any two council members. A special meeting may also be called by vote of the council in open session during a regular meeting or another duly called special meeting.

(b) Notice to the Public. At least forty-eight hours before a special meeting of the council, notice of the date, time, place, and purpose of the meeting shall be (1) posted on the council's principal bulletin board or, if the council has no such board, at the door of the council's usual meeting room and (2) delivered, e-mailed, or mailed to each newspaper, wire service, radio station, television station, and person who has filed a written request for notice with the city clerk. Furthermore, if the council has a website maintained by at least one city employee, notice of the special meeting's date, time, place, and purpose shall be posted on the website in advance of the meeting.

(c) Notice to Members.

- (1) *Meeting called by the mayor, the mayor pro tempore, or any two council members.* At least forty-eight hours before a special meeting called by the mayor, the mayor pro tempore, or any two council members, written notice of the meeting stating its date, time, and place, as well as the

subjects to be considered, shall be delivered to the mayor and each council member or left at his or her usual dwelling place.

- (2) *Meeting called by vote of the council in open session.* When a special meeting is called by vote of the council in open session during a regular meeting or another duly called special meeting, the motion or resolution calling the special meeting shall state the meeting's date, time, place, and purpose. [Written notice of the special meeting's date, time, place, and purpose shall be mailed or delivered at least forty-eight hours before the meeting to each council member not present for the meeting at which the special meeting was called, and to the mayor if he or she was not present at that meeting.]

(d) Transacting Other Business. Unless all members are present or any absent member has signed a written waiver of notice, only those items of business specified in the notice to council members may be taken up at a special meeting. [Even when all members are present or any absent member has signed a waiver, the council may take up an item of business not covered by the notice only if the council first determines in good faith that the item must be discussed or acted upon immediately.]

Rule 11. Emergency Meetings

(a) Grounds for Emergency Meeting. Emergency meetings of the city council may be called only to address generally unexpected circumstances demanding the council's immediate attention.

(b) Calling Emergency Meetings. There are two methods by which an emergency meeting of the council may be called.

- (1) The mayor, the mayor pro tempore, or any two members of the council may at any time call an emergency council meeting by signing a written notice stating the date, time, and place of the meeting and the subjects to be considered. The notice shall be delivered to the mayor and each council member or left at his or her usual dwelling place at least six hours before the meeting.

- (2) An emergency meeting may be held when the mayor and all members of the council are present and consent thereto, or when any absent member has signed a written waiver of notice.

(c) Notice to Media of Emergency Meetings. Notice of an emergency meeting shall be given to each local newspaper, local wire service, local radio station, and local television station that has filed a written request with the city clerk for notice of emergency meetings. To be valid, the request must include the newspaper's, wire service's, or station's telephone number. Notice may be given by telephone, e-mail, or the same method used to notify council members. Notice must be provided immediately after council members have been notified and at the expense of the party notified.

(d) Transaction of Other Business Prohibited. Only business connected with the emergency may be considered at an emergency meeting.

Rule 12. Recessed Meetings

(a) Calling Recessed Meetings. When conducting a properly called regular, special, or emergency meeting, the council may recess the meeting to another date, time, or place by a procedural motion made and adopted, as provided in Rule 31, Motion 3, in open session. The motion must state the time (including the date, if the meeting will resume on a different day) and place at which the meeting will reconvene.

(b) Notice of Recessed Meetings. If the council has a website maintained by one or more city employees, notice of the recessed meeting's date, time, and place must appear on the webpage prior to the meet-

ing. No further notice of a properly called recessed meeting is required.

Part VI. Agenda

Rule 13. Agenda

(a) Draft Agenda.

- (1) *Preparation.* The [city manager/administrator] [city clerk] shall prepare a draft agenda in advance of each meeting of the city council.
- (2) *Requesting placement of items on draft agenda.* For a regular meeting, a request to have an item of business placed on the draft agenda must be received by the [city manager/administrator] [city clerk] at least [two] working days before the date of the meeting. The [city manager/administrator] [city clerk] must place an item on the draft agenda in response to a council member's timely request.
- (3) *Supplemental information/materials.* If the council is expected to consider a proposed ordinance or ordinance amendment, a copy of the proposed ordinance or amendment shall be attached to the draft agenda. [An agenda package shall be prepared that includes, for each item of business listed on the draft agenda, as much background information on the topic as is available and feasible to provide.]
- (4) *Delivery to council members.* Each council member shall receive a hard or electronic copy of the draft agenda [and the agenda package]. [Except in the case of an emergency meeting, the agenda [and agenda package] shall be furnished to each member at least [twenty-four hours] before the meeting.]
- (5) *Public inspection.* The draft agenda [and agenda package] shall be available to the public when the document[s] [is/are] ready to be, or [has/have] been, circulated.

(b) Adoption of the Agenda.

- (1) *Adoption.* As its first order of business at each meeting, the council shall review the draft agenda, make whatever revisions it deems appropriate, and adopt a formal agenda for the meeting.
- (2) *Amending the agenda.* Both before and after it adopts the agenda, the council may add or subtract agenda items by majority vote of the members present and voting, except that
the council may not add to the items stated in the notice of a special meeting unless the requirements in Rule 10(d) are satisfied and
only business connected with the emergency may be considered at an emergency meeting.
- (3) *Designation of items "For Discussion and Possible Action."* The council may designate an agenda item "for discussion and possible action." The designation signifies that the council intends to discuss the item and may, if it so chooses, take action on the item following the discussion.

(c) Consent Agenda. The council may designate part of an agenda for a regular meeting as the *consent agenda*. Items may be placed on the consent agenda by the person(s) charged with preparing the draft agenda if the items are judged to be noncontroversial and routine. Prior to the council's adoption of the meeting agenda under subparagraph (b)(1) of this rule, the request of any member to have an item moved from the consent agenda to unfinished business must be honored by the council. All items on the consent agenda must be voted on and adopted by a single motion, with the minutes reflecting the motion and vote for each item.

(d) Informal Discussion of Agenda Items. The council may informally discuss an agenda item even

when no motion regarding that item is pending.

Rule 14. Acting by Reference to Agenda or Other Document

The council shall not deliberate, vote, or otherwise take action on any matter by reference to the agenda or any other document with the intention of preventing persons in attendance from understanding what action is being considered or undertaken. The council may deliberate and vote by reference to the agenda or any item on the agenda, including the consent agenda, provided copies of the agenda are available for public inspection at the meeting and are sufficiently worded to enable the public to understand what is being deliberated or acted upon.

Rule 15. Agenda Items from Members of the Public

If a member of the public wishes to request that the council include an item on its regular meeting agenda, he or she must submit the request to the [city clerk/city manager/administrator] by the deadline specified in Rule 13(a)(2). The council is not obligated to place an item on the agenda merely because such a request has been received.

Rule 16. Order of Business

Items shall be placed on a regular meeting agenda according to the order of business. The usual order of business for each regular meeting shall be as follows:

- Call to Order
- Agenda Approval
- [Public Hearing(s) if scheduled]
- Public Comment
- Response to Public Comment
- Introductions and Presentations
- Old Business
- New Business
- Committee Reports
- Commissioners' Agenda
- Mayor's Agenda
- Town Manager's Agenda
- Town Attorney's Agenda
- Consent Agenda
- Public Comment
- Response to Public Comment
- Adjourn

Without objection, the mayor may call agenda items in any order most convenient for the dispatch of business.

Part VII. Role of the Presiding Officer

Rule 17. The Mayor

(a) **Presiding Officer.** When present, the mayor shall preside at meetings of the council.

(b) Right to Vote. The mayor votes on the same basis as other council members, though in no event may the mayor break a tie on a motion on which he or she has already voted.

(c) Recognition of Members. A member must be recognized by the mayor (or other presiding officer) in order to address the council, but recognition is not necessary for an appeal pursuant to Rule 31, Motion 1.

(d) Powers as Presiding Officer. As presiding officer, the mayor is to enforce these rules and maintain order and decorum during council meetings. To that end, the mayor may

- (1) rule on points of parliamentary procedure, to include ruling out of order any motion clearly offered for obstructive or dilatory purposes;
- (2) determine whether a member or other speaker has gone beyond reasonable standards of courtesy in his or her remarks and entertain and rule on objections from other members on this ground;
- (3) entertain and answer questions of parliamentary procedure;
- (4) call a brief recess at any time; and
- (5) adjourn in an emergency.

(e) Appeals of Procedural Rulings. A member may appeal a decision made or answer given by the mayor under subparagraph (d)(1), (2), or (3) in accordance with Rule 31, Motion 1.

Rule 18. The Mayor Pro Tempore

(a) Presiding in Mayor's Absence. When present, the mayor pro tempore shall preside over council meetings in the mayor's absence with all the powers specified in Rule 17(d).

(b) Delegation of Mayor's Powers/Duties. In the mayor's absence, the council may confer on the mayor pro tempore any of the mayor's powers and duties. Likewise, if the mayor becomes physically or mentally unable to perform the duties of his or her office, the council may by unanimous vote declare the mayor incapacitated and confer any of the mayor's powers and duties on the mayor pro tempore. When the mayor announces that he or she is no longer incapacitated, and a majority of the council concurs, the mayor shall resume the exercise of his or her powers and duties.

(c) Duty to Vote. Even when presiding over a council meeting, the mayor pro tempore has the same duty as other members to vote on all questions unless he or she has been excused from voting on a matter in accordance with Rule 28.

Rule 19. Other Presiding Officer

If both the mayor and mayor pro tempore are absent, the council may elect from among its members a temporary presiding officer to chair the meeting. While serving as temporary presiding officer, a member has the powers listed in Rule 17(d). Service as a temporary presiding officer does not relieve a member of the duty to vote on all questions unless excused from voting pursuant to Rule 28.

Rule 20. When the Presiding Officer Is Active in Debate

If the mayor becomes active in debate on a particular proposal, he or she [may] [must] have the mayor pro tempore preside during the council's consideration of the matter. If the mayor pro tempore is absent or is also actively debating the matter, the mayor [may] [must] designate another member to preside until the matter is concluded. Similarly, if the mayor pro tempore or a temporary presiding officer is presiding and takes an active part in debating a topic, he or she [may] [must] designate another council member to preside temporarily.

Part VIII. Motions and Voting

Rule 21. Action by the Council

Except as otherwise provided in these rules, the council shall act by motion. Any member may make a motion, [not] including the mayor.

Rule 22. Second Not Required

Shall not be applicable.

Rule 23. One Motion at a Time

A member may make only one motion at a time.

Rule 24. Withdrawal of Motion

The member who introduces a motion may withdraw the motion unless the motion has been amended or the presiding officer has put the motion to a vote.

Rule 25. Debate

The presiding officer shall state the motion and then open the floor to debate, presiding over the debate according to the principles listed below.

- The maker of the motion is entitled to speak first.
- A member who has not spoken on the issue shall be recognized before a member who has already spoken.
- To the extent practicable, the debate shall alternate between proponents and opponents of the measure.
- [No member may speak more than twice on the same substantive motion. A member's first speech on a substantive motion shall be limited to [10] minutes, and any second speech on the same motion shall be limited to [five] minutes. The same rules apply to debate on a procedural motion, except that a member's first speech shall not exceed [five] minutes, and any second speech shall be limited to [two] minutes.]

Rule 26. Adoption by Majority Vote

A motion is adopted if supported by a simple majority of the votes cast, a quorum being present, except when a larger majority is required by these rules or state law.

Rule 27. Changing a Vote

A member may change his or her vote on a motion at any time before the presiding officer announces whether the motion has passed or failed. Once the presiding officer announces the result, a member may not change his or her vote without the unanimous consent of the remaining members present. A member's request for unanimous consent to change a vote is not in order unless made immediately following the presiding officer's announcement of the result.

Rule 28. Duty to Vote

(a) Duty to Vote. Every council member must vote except when excused from voting as provided by this rule.

(b) Grounds for Excusal. A member may be excused from voting on a matter involving the member's own financial interest or official conduct, though not if the proposal in question is one to alter the compensation or allowances paid to council members. Members may also be excused from voting when pro-

hibited from voting under G.S. 14-234 (contract providing direct benefit to member), G.S. 160A-381(d) (legislative zoning decision likely to have a direct, substantial, and readily identifiable financial impact on member), or G.S. 160A-388(e)(2) (member's participation in quasi-judicial decision would violate affected person's right to an impartial decision maker). [Questions about whether a basis for excusal exists should be directed to the city attorney.]

(c) Procedure for Excusal.

- (1) *At member's request.* Upon being recognized at a duly called meeting of the council, a member who wishes to be excused from voting shall so inform the presiding officer, who must then submit the matter to a vote of the remaining members present. If a majority of the remaining members present vote to excuse the member, the member is excused from voting on the matter.
- (2) *On council's initiative.* Even when a member has not asked to be excused from voting on a matter, a majority of the remaining council members present may by motion and vote excuse the member from voting if grounds for doing so exist under paragraph (b).

(d) Consequence of Non-Excused Failure to Vote. Except as specified in paragraph (e), if a member who has not been excused from voting fails to vote on a matter, the member's failure to vote shall be recorded as an affirmative vote, provided

- (1) the member is physically present in the council chamber or
- (2) the member has physically withdrawn from the meeting without being excused by majority vote of the remaining members present.

(e) Failure to Vote on Certain Zoning Matters. A member's unexcused failure to vote shall not be recorded as an affirmative vote if the motion concerns a proposal to amend, supplement, or repeal a zoning ordinance. Instead, the member's unexcused failure to vote shall be recorded as an abstention.

[(f) Mayor's Duty to Vote. The provisions of this rule apply to the mayor.]

Rule 29. Voting by Written Ballot

(a) Secret Ballots Prohibited. The council may not vote by secret ballot.

(b) Rules for Written Ballots. The council may decide by majority vote or unanimous consent to vote on a motion by written ballot. Each member must sign his or her ballot, and the minutes must record how each member voted by name. The ballots must be made available for public inspection in the city clerk's office immediately following the meeting at which the vote took place and remain there until the minutes of that meeting are approved, at which time the ballots may be destroyed.

Rule 30. Substantive Motions

A substantive motion is not in order if made while another motion is pending. Once the council disposes of a substantive motion, it may not take up a motion that presents essentially the same issue at the same meeting, unless it first adopts a motion to reconsider pursuant to Rule 31, Motion 14.

Rule 31. Procedural Motions

(a) Certain Motions Allowed. The council may consider only those procedural motions listed in this rule. Unless otherwise noted, each procedural motion may be debated and amended and requires a majority of votes cast, a quorum being present, for adoption.

(b) Priority of Motions. The procedural motions set out in this paragraph are listed in order of priority. A procedural motion is not in order so long as another procedural motion of higher priority is pending, except that

- any procedural motion other than an appeal under Motion 1 is subject to amendment as provided in Motion 12, and
- a motion to call the question (end debate) may be made with regard to any procedural motion in accordance with Motion 9.

When several procedural motions are pending, voting must begin with the procedural motion highest in priority, provided that a motion to amend or end debate on the highest priority motion must be voted on first.

Motion 1. To Appeal a Ruling of the Presiding Officer. Any member may appeal the presiding officer's ruling on whether a motion is in order or on whether a speaker has violated reasonable standards of courtesy. The presiding officer's response to a question of parliamentary procedure may also be appealed by any member. An appeal is in order immediately after the disputed ruling or parliamentary response and at no other time. The member who moves to appeal need not be recognized by the presiding officer, and if timely made, the motion may not be ruled out of order.

Motion 2. To Adjourn. This motion may be used to close a meeting. It is not in order if the council is in closed session.

Motion 3. To Recess to a Time and Place Certain. This motion may be used to call a recessed meeting as permitted under Rule 12. The motion must state the time (including the date, if the meeting will reconvene on a different day) and place at which the meeting will resume. The motion is not in order if the council is in closed session.

Motion 4. To Take a Brief Recess.

Motion 5. To Follow the Agenda. This motion must be made at the time an item of business that deviates from the agenda is proposed; otherwise, the motion is out of order as to that item.

Motion 6. To Suspend the Rules. To be adopted, a motion to suspend the rules must receive affirmative votes equal to at least two-thirds of the council's actual membership, excluding vacant seats and not counting the mayor if the mayor votes only in case of a tie. The council may not suspend provisions in these rules that are required under state law.

Motion 7. To Divide a Complex Motion. This motion is in order whenever a member wishes to consider and vote on parts of a complex motion separately. The member who makes this motion must specify how the complex motion will be divided.

Motion 8. To Defer Consideration. The council may defer its consideration of a substantive motion, and any proposed amendments thereto, to an unspecified time. A motion that has been deferred expires unless the council votes to revive it pursuant to Motion 13 within [100] days of deferral. A new motion having the same effect as a deferred motion may not be introduced until the latter has expired.

Motion 9. To End Debate (Call the Previous Question). If adopted, this motion terminates debate on a pending motion, thereby bringing it to an immediate vote. This motion is not in order until every member has had an opportunity to speak once on the pending motion.

Motion 10. To Postpone to a Certain Time. This motion may be employed to delay the council's consideration of a substantive motion, and any proposed amendments thereto, until a designated day, meeting, or hour. During the period of postponement, the council may not take up a new motion raising essentially the same issue without first suspending its rules pursuant to Motion 6.

Motion 11. To Refer a Motion to a Committee. The council may vote to refer a substantive motion to a committee for study and recommendations. While the substantive motion is pending before the

committee, the council may not take up a new motion raising essentially the same issue without first suspending its rules pursuant to Motion 6. If the committee fails to report on the motion within [60] days of the referral date, the council must take up the motion if asked to do so by the member who introduced it.

Motion 12. To Amend.

(a) **Germaneness.** A motion to amend must concern the same subject matter as the motion it seeks to alter.

(b) **Limit on Number of Motions to Amend.** When a motion to amend is under consideration, a motion to amend the amendment may be made; however, no more than one motion to amend and one motion to amend the amendment may be pending at the same time.

(c) **Amendments to Ordinances.** Any amendment to a proposed ordinance must be reduced to writing before the vote on the amendment.

Motion 13. To Revive Consideration. The council may vote to revive consideration of any substantive motion that has been deferred pursuant to Motion 8, provided it does so within [100] days of its vote to defer consideration.

Motion 14. To Reconsider. The council may vote to reconsider its action on a matter, provided the motion to reconsider is made (a) at the same meeting during which the action to be reconsidered was taken and (b) by a member who voted with the prevailing side. For purposes of this motion, “the same meeting” includes any continuation of a meeting through a motion to recess to a certain time and place (Motion 3). The motion is not in order if it interrupts the council’s deliberation on a pending matter.

Motion 15. To Rescind. The council may vote to rescind an action taken at a prior meeting provided rescission is not forbidden by law.

Motion 16. To Prevent Reintroduction for [Six] Months. This motion may be used to prevent the reintroduction of a failed substantive motion for a time, but it is in order only when made immediately following the substantive motion’s defeat. To be adopted, this motion must receive votes equal to at least two-thirds of the council’s actual membership, excluding vacant seats and not counting the mayor, unless the mayor may vote on all questions. If this motion is adopted, the ban on reintroduction remains in effect for [six] months or until the council’s next organizational meeting, whichever occurs first.

Part IX. Ordinances and Contracts

Rule 32. Introduction of Ordinances

For purposes of these rules, the “date of introduction” for a proposed ordinance is the date on which the council first votes on the proposed ordinance’s subject matter. [The council votes on the subject matter of a proposed ordinance when it votes on whether to adopt or make changes to the proposed ordinance.]

Rule 33. Adoption, Amendment, and Repeal of Ordinances

(a) Adoption of Ordinances.

- (1) *Proposed ordinances to be in writing.* No proposed ordinance shall be adopted unless it has been reduced to writing and distributed to members before a vote on adoption is taken.
- (2) *Adoption on date of introduction.* To be approved on the date of introduction, a proposed ordinance or any action having the effect of an ordinance must receive affirmative votes equal to at least two-thirds of the council’s actual membership, excluding vacant seats and not counting the

mayor, unless the mayor has the right to vote on all questions before the council.

- (3) *Adoption after date of introduction.* To be approved after the date of introduction, a proposed ordinance or any action having the effect of an ordinance must receive affirmative votes equal to at least a majority of all council members not excused from voting on the matter. In calculating the number of affirmative votes necessary for approval, the council shall count the mayor if he or she votes on all questions. If the mayor votes only in the case of tie, the mayor's vote counts if there is an equal division.

(b) Amendment and Repeal of Ordinances. The same voting requirements that govern the adoption of proposed ordinances also apply to the amendment or repeal of an ordinance.

Rule 34. Adoption of the Budget Ordinance

(a) Special Rules for the Adoption or Amendment of the Budget Ordinance. Notwithstanding any provision in the city charter, general law, or local act,

- (1) the council may adopt or amend the budget ordinance at a regular or special meeting of the council by a simple majority of those members present and voting, a quorum being present;
- (2) no action taken with respect to the adoption or amendment of the budget ordinance need be published or is subject to any other procedural requirement governing the adoption of ordinances or resolutions by the council; and
- (3) the adoption or amendment of the budget ordinance and the levy of taxes in the budget ordinance are not subject to the provisions of any city charter or local act concerning initiative or referendum.

(b) Notice Requirements for Budget Meetings. During the period beginning with the submission of the budget to the council and ending with the adoption of the budget ordinance, the council may hold any special meetings that may be necessary to complete its work on the budget ordinance. Except for the notice requirements of the open meetings law, which continue to apply, no provision of law concerning the call of special meetings applies during that period so long as

- each member of the board has actual notice of each special meeting called for the purpose of considering the budget and
- no business other than consideration of the budget is taken up.

(c) No Authority for Closed Sessions. This rule shall not be construed to authorize the council to hold closed sessions on any basis other than the grounds set out in Rule 5.

Rule 35. Approval of Contracts and Authorization of Expenditures

(a) Contracts to be in Writing. No contract shall be approved or ratified by the city council unless it has been reduced to writing at the time of the council's vote.

(b) Approval of Contracts. To be approved or ratified, a contract must receive affirmative votes equal to at least a majority of all council members not excused from voting on the contract, including the mayor's vote in the event of a tie.

(c) Authorization of Expenditure of Public Funds. The same vote necessary to approve or ratify a contract is required for the council to authorize the expenditure of public funds, except when the expenditure is authorized pursuant to Rule 34.

Part X. Public Hearings and Comment Periods

Rule 36. Public Hearings

(a) **Calling Public Hearings.** In addition to holding public hearings required by law, the council may hold any public hearings it deems advisable. The council may schedule hearings or delegate that responsibility to city staff members, as appropriate, except when state law directs the council itself to call the hearing. If the council delegates scheduling authority, it must provide adequate guidance to assist staff members in exercising that authority.

(b) **Public Hearing Locations.** Public hearings may be held anywhere within the city or within the county where the city is located.

(c) **Rules for Public Hearings.** The council may adopt reasonable rules for public hearings that, among other things,

- fix the maximum time allotted to each speaker,
- provide for the designation of spokespersons for groups of persons supporting or opposing the same positions,
- provide for the selection of delegates from groups of persons supporting or opposing the same positions when the number of persons wishing to attend the hearing exceeds the capacity of the hall (so long as arrangements are made, in the case of a hearing subject to the open meetings law, for those excluded from the hall to listen to the hearing), and
- provide for the maintenance of order and decorum in the conduct of the hearing.

(d) **Notice of Public Hearings.** Any public hearing at which a majority of the council is present shall be considered part of a regular or special meeting. Consequently, the relevant notice and related requirements of the open meetings law, as set out in Rules 9 through 12, apply to such hearings. Some statutes mandate additional notice for particular types of hearings, and such notice must be provided together with notice of the meeting during which the hearing will take place.

(e) **Continuing Public Hearings.** The council may continue any public hearing without further advertisement to a time and place certain, provided the time (including the date, if the hearing will resume on a different day) and place of the continued hearing are announced in open session. Except for hearings conducted pursuant to paragraph (g), if a quorum of the council is not present for a properly scheduled public hearing, the hearing must be continued until the council's next regular meeting without further advertisement.

(f) **Conduct of Public Hearings.** At the time appointed for the hearing, the mayor shall call the hearing to order and proceed to allow public input in accordance with any rules adopted by the council for the hearing. Unless the council extends the hearing, when the time allotted for the hearing expires, or when no one wishes to speak who has not done so, the mayor shall [declare the hearing closed] [entertain a motion to close the hearing], and the council shall resume the regular order of business.

(g) **Public Hearings by Less Than a Majority of Council Members.** Nothing in this rule prevents the council from appointing a member or members to hold a public hearing on the council's behalf, except when state law requires that the council itself conduct the hearing.

Rule 37. Public Comment Periods

(a) **Frequency of Public Comment Periods.** The council must provide at least one opportunity for public comment each month at a regular meeting, except that the council need not offer a public comment period during any month in which it does not hold a regular meeting.

(b) Rules for Public Comment Periods. The council may adopt reasonable rules for public comment periods that, among other things,

- fix the maximum time allotted to each speaker,
- provide for the designation of spokespersons for groups supporting or opposing the same positions,
- provide for the selection of delegates from groups supporting or opposing the same positions when the number of persons wishing to attend the public comment period exceeds the capacity of the hall (so long as arrangements are made for those excluded from the hall to listen to the hearing), and
- provide for the maintenance of order and decorum in the conduct of the hearing.

(c) Content-Based Restrictions Generally Prohibited. The council may not restrict speakers based on subject matter, as long as their comments pertain to subjects within the council's real or apparent jurisdiction.

Part XI. Appointments and Appointed Bodies

Rule 38. Appointments

(a) Appointments in Open Session. The council must consider and make any appointment to another body or, in the event of a vacancy on the council, to its own membership in open session.

(b) Nomination and Voting Procedure. The council shall use the following procedure to fill a vacancy in the council itself or in any other body over which it has the power of appointment. [The nominating committee shall be called upon to make its report and recommendation(s), if any.] The mayor shall [then] open the floor for nominations, whereupon council members may put forward and debate nominees. When debate ends, the mayor shall call the roll of the members, and each member shall cast a vote for his or her preferred nominee. The voting shall continue until a nominee receives a majority of votes cast during a single balloting.

(c) Mayor. The mayor may [not] make nominations [or][and] vote on appointments under this rule.

(d) Multiple Appointments. If the council is filling more than one vacancy, each member shall have as many votes in each balloting as there are slots to be filled, and the votes of a majority of the total number of members voting shall be required for each appointment. No member may cast more than one vote for the same candidate for the same vacancy during a single balloting.

(e) Duty to Vote. It is the duty of each member to vote for as many appointees as there are appointments to be made, but failure to do so shall not invalidate a member's ballot.

(f) Vote by Written Ballot. The council may vote on proposed appointments by written ballot in accordance with Rule 29.

Rule 39. Committees and Boards

(a) Establishment and Appointment. The council may establish temporary and standing committees, boards, and other bodies to help carry on the work of city government. Unless otherwise provided by law or the council, the power of appointment to such bodies lies with the council.

(b) Open Meetings Law. The requirements of the open meetings law apply whenever a majority of an appointed body's members gather in person or simultaneously by electronic means to discuss or conduct official business. They do not apply to meetings solely among the city's professional staff.

(c) Procedural Rules. The council may prescribe the procedures by which the city's appointed bodies operate, subject to any statutory provisions applicable to particular bodies. [In the absence of rules adopted by the council, an appointed body may promulgate its own procedural rules, so long as they are in keeping with any relevant statutory provisions and generally accepted principles of parliamentary procedure.]

Part XII. Miscellaneous

Rule 40. Amendment of the Rules

These rules may be amended at any regular meeting or at any properly called special meeting for which amendment of the rules is one of the meeting's stated purposes. Any amendment to these rules must be consistent with the city charter, any relevant statutes, and generally accepted principles of parliamentary procedure. To be adopted, a motion to amend these rules must be approved by a majority of the council's members, excluding vacant seats and counting the mayor only if the mayor may vote on all questions.

Rule 41. Reference to Robert's Rules of Order Newly Revised

The council shall refer to *Robert's Rules of Order Newly Revised* for guidance when confronted with a procedural issue not covered by these rules or state law. Having consulted *Robert's*, the mayor shall make a ruling on the issue subject to appeal to the council under Rule 31, Motion 1.