

## ORDINANCE NO. NS-2394

### AN ORDINANCE AMENDING COUNCIL RULES FOR THE BEND CITY COUNCIL

#### Findings

- A. Bend Charter Section 15 requires the City Council to adopt rules governing Council meetings and procedure ("Council Rules").
- B. In 2011, the Council adopted Council Rules by Ordinance No. 2160, per Bend Code Section 1.10.010, and amended the Rules in 2017 (Ordinance 2300). The Rules state that "Council shall review these rules periodically". (Council Rules, Section 1.005). Amendments are also adopted by ordinance.
- C. Review of the Council Rules is also a Council Goal for 2019-2021.
- D. The amendments are intended to align the Rules with a 2018 charter amendment providing for a directly elected mayor, to add rules relating to public meetings and public records, to add a rule relating to attendance at meetings by virtual means, and to make other minor adjustments to the Rules for clarity and consistency.
- E. These amendments to the Rules were reviewed and discussed at public meetings, including a Council work session on February 19, 2020 and the quarterly update on October 19, 2020. This ordinance amending the Rules will be step one of a two-step review process for the Council Rules, with a second, more in-depth review and reorganization of the Rules anticipated for a separate ordinance in 2021.

Based on these findings,

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The City of Bend Council Rules governing Council meetings and procedure are amended consistent with the attached Exhibit A.

First Reading Date: December 2, 2020

Second Reading Date: December 16, 2020

YES:	Sally Russell, Mayor	NO: none
	Bruce Abernethy	
	Barb Campbell	
	Bill Moseley	
	Justin Livingston	
	Gena Goodman-Campbell	
	Chris Piper	

*Sally Russell*

Sally Russell, Mayor

ATTEST:

*Robyn Christie*

Robyn Christie, City Recorder

Approved as to Form:

*Mary A. Winters*

Mary A. Winters, City Attorney

**EXHIBIT A**

**CITY OF BEND COUNCIL RULES**  
**AMENDED BY ORDINANCE NS-2394**  
EFFECTIVE May 20, 2011  
Amended Effective December 15, 2017  
Amended Effective December 20, 2020

## **PART 1 - GENERAL COUNCIL RULES**

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

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

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

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.

### **1.010 Attendance and Presence in the City**

Councilors will inform the Mayor and/or City Manager if they will be unable to attend any meetings. If the Mayor will be absent, the Mayor will inform the City Manager and the Mayor Pro Tem. Under the Charter, a Council position becomes vacant if the Council member is absent from the City for more than 30 days without Council permission or from all meetings of the Council within a 60-day period.

### **1.015 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.

### **1.020 Communication with Staff**

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.
- (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, so as to not interfere with staff work performance, and so as 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.
- (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.

#### **1.025 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. 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.

#### **1.030 Confidentiality; Outside Statements**

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.

- (1) 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.

- (2) 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.
- (3) The Council, by resolution or motion, may censure a member who discloses a confidential matter.
- (4) 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 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. If a member of the Council, including the Mayor, appears before another governmental agency, the media or an organization 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.
- (5) 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. 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.

### **1.035 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.

### **1.040 Ethical Conduct and Fair Treatment**

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.

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.

#### **1.045 Expenses, Reimbursement and Compensation**

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

#### **1.050 General Conduct of Council Members**

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. Council members must abide by all decisions of the Council, whether or not the member voted on the prevailing side. Abiding by decisions of the Council does not preclude a Council member from advocating for repeal or amendment of the decision.

#### **1.055 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.

**1.060            Legal Advice**

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.

**1.065            Liaison to Boards, Commissions and Committees**

- (1) The Mayor shall appoint a Council member and an alternate to act as liaison 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.
- (2) 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 either contact another Council member to act as liaison for the meeting or ask the Mayor to find a substitute. If a liaison fails to attend more than three consecutive meetings of the same committee, commission or board, they may be replaced.
- (3) When serving as a liaison to a City board, commission or committee as liaison, Council members will:
  - A. Not attempt to lobby or influence the board, commission or committee on any item under its consideration. It is important for the advisory body to make objective recommendations to the Council on items before them. The liaison's communications shall reflect the majority position held by the Council on matters referred to the board, commission or committee to the extent such a Council position is known and articulated, or Council's expectations in light of Council adopted goals. The liaison's role is limited to explaining that position or Council expectations for the body.
  - B. Not vote at the body's meeting on any item.
  - C. This rule applies only when the Council member is acting as liaison; it does not apply when the Council member is a member of the board, commission or committee and does not apply to non-city bodies when the Council member is the representative of the City.

**1.070            Litigation**

The Council will meet in executive session with the City Manager and City Attorney



within 30 days of the City's receipt of:

- A. A statutory notice of intent to sue, or
- B. A summons and complaint for damages.

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

#### **1.075 Presiding Officer - Duties and Election of Mayor pro tem**

- (1) The Mayor shall be the presiding officer of Council meetings. The Mayor shall also perform all duties as defined in the City Charter.
- (2) At the first 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.
- (3) After a vote on a motion, the presiding officer shall announce the result of the vote.
- (4) The presiding officer shall decide all procedural questions. A procedural decision may be overruled by a majority vote of the Council.
- (5) The presiding officer shall sign all ordinances and resolutions adopted by the Council.

#### **1.080 Council Subcommittees**

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

#### **1.085 Public Records and Public Meetings Act Compliance (also see Section 2.105)**

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. 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 Council member's personal device or email address. Council members are responsible for

maintaining their own records and assisting the City Recorder and City Attorney in responding to public records requests.

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).

## PART 2 – COUNCIL MEETINGS

### 2.005 Agenda

- (1) 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.
- (2) 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.
- (3) Placing Items on Work Session or Meeting Agenda by Councilors.

Any Council member may request that a matter be placed on the work session portion of the agenda for a brief discussion by Council on the first Council meeting of the month. This work session will include time to discuss such requests, which should be provided to the City Manager and City Recorder at least seven days prior to the meeting. 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 wants further discussion as an agenda item at another work session or at a regular meeting, the Mayor and City Manager will endeavor to schedule the matter within the next three meetings. 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.

Any proposed change to the municipal or development code will normally require a majority of Council to request a full work session agenda item.

A request from a Councilor for action items (such as 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. Such items may do so without following this subsection.

- (4) Recommendations. Items for the Council agenda should be submitted in time to allow for recommendations from Council boards, commissions or committees, as applicable, with the recommendation included in the agenda item.
- (5) Proclamations.
  - A. From time to time, the Council adopts proclamations declaring a specified date to recognize the efforts of various community groups and individuals on certain projects or subjects. 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 to be considered for adoption. Proclamations are for local efforts only or national efforts that affect the local community and a representative from the sponsoring organization must be at the Council meeting at the time the proclamation is adopted in order to accept the proclamation.
- (6) Consent Agenda. 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. 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. 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.
- (7) 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.

## **2.010 Order of Business and Attendance**

- (1) 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.
  - A. 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.
  - B. 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.
- (2) 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.
- (3) Council members, the City Manager, City Attorney, the City Recorder (or designees for staff) are required to attend all Council meetings unless excused. The Chief of Police (or designee) is required to attend all council regular meetings.
- (4) 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.
- (5) 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.
- (6) 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.
- (7) Department directors or other staff will attend Council meetings upon request of the City Manager or Council through the City Manager.
- (8) Council business meetings will generally contain the following categories, unless

the Presiding Officer or Council changes the agenda. Any changes in the agenda will be announced by the Presiding Officer.

- A. Call to Order and Roll Call.
- B. Pledge of Allegiance and Land Acknowledgement.
- C. Good of the Order (Proclamations/Presentations).
- D. Visitor's Section on items not on agenda.
- E. Consent Agenda.
- F. Items Removed from Consent Agenda.
- G. Land Use Matters, including Public Hearings.
- H. Ordinances and Resolutions, and associated Public Hearings.
- I. Council Business: Contract approvals, agreements, etc.
- J. 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, or consent to Mayor's committee appointments. Generally, Council members should come prepared and seek to limit their comments to approximately three minutes to respect everyone's time at the end of the business meeting. Council Action and Reports can also be used for motions on action items moving forward out of a work session, at the Mayor's discretion.
- K. 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.
- L. Adjournment.

#### **2.015 Absence for Portion of a 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.

#### **2.020 Addressing the Council**

- (1) Written communications. Any person may address the Council in writing.

- (2) Oral communications. Any person may speak on any matter on the agenda 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.
- (3) Visitors Section. During the visitor's section of the agenda, any person may address the Council on items not listed in the Council agenda that are properly the subject of Council consideration. 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.
- (4) Each person addressing the Council shall provide the City Recorder with a completed testimony form, including name and contact information.
- (5) All remarks shall be addressed to the Council as a body and not to any particular member.
- (6) No question shall be asked of a Councilor except through and with the permission of the presiding officer.

#### **2.025 Mobile Devices; Personal Computers**

- (1) Mobile devices and personal electronic devices shall be silenced during Council meetings.
- (2) 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.

#### **2.030 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.

#### **2.035 Decorum**

- (1) 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.

- (2) Council meetings may provide an opportunity to provide public input. 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. Conduct that disrupts the meeting may result in a warning or removal from the meeting by the presiding officer. While community members may disagree with each other on issues and give critical feedback, they are expected to do so respectfully, in accordance with these rules.
- (3) Any member of the audience who disrupts a Council meeting may be excluded from the meeting by the presiding officer if necessary to maintain order, conduct business efficiently, or allow others the ability to participate.
- (4) 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.

#### **2.040 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.

#### **2.045 Ex Parte Contacts**

For quasi-judicial hearings, 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.

#### **2.050 Virtual Meetings**

- (1) Any meeting, including an executive session, may be held through the use of telephone or other electronic or virtual communication, as directed by the Mayor and/or 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. 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.

- (2) 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.
- (3) Upon reasonable notice to the City Manager and Mayor, a Council member may attend a meeting electronically when they determine it is in the interest of their health or safety, regardless of whether or how many Council members are attending in person. Electronic attendance is considered attendance for purposes of a quorum of the Council members.

## **2.055 Meetings**

- (1) Unless provided otherwise by ordinance, the City Council shall hold regular 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.
- (2) Council meetings shall be held in the Council Chambers of City Hall or other place as the Council determines.
- (3) 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.
- (4) The City Recorder shall be advised of all special and emergency meetings of the City Council.
- (5) Public notice of all meetings shall be provided by the City Recorder.
- (6) Executive Sessions. 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.
  - A. 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.
  - B. 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.

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

## **2.060 Minutes**

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

- (1) Council meeting minutes shall contain:
  - A. The name of Council members present
  - B. All motions, proposals, resolutions, orders, ordinances and measures proposed and their disposition.
  - C. The result of any votes, including ayes and nays and the names of the Council members who voted.
  - D. The substance of the discussion on any matter.
  - E. Reference to any document discussed at the meeting.
- (2) 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.

## **2.065 Motions**

When a motion is made, it shall 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:

- A. A motion may be withdrawn by the mover at any time without the consent of the Council.
- B. 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.
- C. A motion that receives a tie vote fails.
- D. A call for the question is intended to close the debate on the main motion and does not require a second and is not debatable. A call for the question fails without a majority vote. Debate on the main subject resumes if the motion fails.
- E. 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.
- F. A motion to adjourn cannot be amended.
- G. A friendly amendment should be handled by the chair like any other amendment—with a second and a majority vote.
- H. 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.
- I. Amendments are voted on first, then the main motion is voted on as amended.
- J. 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.
- K. The motion maker, presiding officer, City Recorder, City Manager or City Attorney should repeat the motion prior to the vote.
- L. 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.

## **2.070 Participation in Council Meetings**

Any Councilor desiring to be heard during a Council meeting should normally be recognized by the presiding officer and shall confine his or her remarks to the subject under consideration or to be considered. Council members will speak one at a time, allowing one another to finish. The presiding officer may allow flexibility in the application of this rule.

#### **2.075' Participation by Presiding Officer**

- (1) The presiding officer shall have all rights and privileges of a Council member.
- (2) A Council member may speak to the question at issue after being recognized by the presiding officer.
- (3) A Council member shall not be interrupted when speaking except on a question of order. If a member is called to order the member shall cease speaking until the question of order is determined.
- (4) The following procedure will be followed for adoption of ordinances.
  - A. The Council will vote on a motion for the first reading of a proposed ordinance.
  - B. At the next meeting, the Council will vote on a motion for second reading and adoption of the ordinance.
  - C. All ordinances will take effect 30 days after the roll call vote on an ordinance unless an emergency has been declared.
- (5) Resolutions will be adopted by a motion. Resolutions take effect immediately upon passage unless otherwise stated in the resolution.
- (6) No ordinance or resolution will be presented to the Council without review by the City Attorney and the City Manager.
- (7) 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.
- (8) 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.

#### **2.080 Non-Participation**

A Council member will not participate in a quasi-judicial decision if the Council member is biased 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.

## **2.085 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*.

## **2.090 Ordinances and Resolutions**

**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.**

## **2.095 Executive Sessions**

- (1) 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.
- (2) 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
- The Source Weekly
- Cascade Business Journal
- Cascade Business News
- COTV
- KTVZ Television
- KOHD Television
- KEZI Television
- KLCC
- Bend Radio Group
- Combined Communications
- Oregon Public Broadcasting
- The Oregonian
- Central Oregon Daily News
- KPOV
- KBNZ
- Horizon Broadcasting

No other entity shall be permitted to attend an executive session unless it is recognized

through the process described in Section 3 below.

(3) Recognition of Other News Media Organizations.

A. 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:
  - (1) 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
  - (2) 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.

B. 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.

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

A. 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.
- B. 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).
- C. 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).
- D. 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.
- (5) 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.
- (6) 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.
- (7) Application to Boards and Commissions. These policies and procedures shall apply to the City and all of its boards and commissions.

## **2.100 Goal Setting**

- (1) 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:

- A. Input from interested parties, including but not limited to City Boards and Commissions, Neighborhood Associations, and Ad Hoc Committees formed by Council.
  - i. Input should be guided by the committee's charge as articulated in City Code; and
  - ii. Council may elect to provide additional direction on input based on preliminary scoping of goals.
- B. Input from City staff and Councilors, including:
  - i. 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
  - ii. Mayor or designee interviews with individual Councilors.
- C. A one to two day retreat with the objective of:
  - i. Distilling input received into themes;
  - ii. Developing goals based on themes;
  - iii. Creating objectives to guide staff work; and
  - iv. Creating performance metrics for each goal.
- D. Council adoption of Goals at a regular business meeting prior to March 31.
- E. 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:
  - i. Proposed strategies and action items;
  - ii. A summary of resources including budget and staffing needs to complete approved Council goals; and
  - iii. A risk analysis, if appropriate.
- F. A comprehensive review of Council Goals, Objectives and Work Plan will be considered during the budget deliberation process.

- G. Final approval of the staff Work Plan will occur with the adoption of the biennial budget no later than June 30.
- H. The status of Council Goals, Objectives and Work Plan, including performance metrics and other measures of progress will be reviewed:
  - i. During quarterly check in meetings with City Boards, Commissions, and Committees;
  - ii. In the Weekly Council Memo;
  - iii. During City Manager Reports at Council meetings as needed; and
  - iv. During the City Manager annual performance review.

**2.105 Social Media Policy for Elected Officials**

- (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.

- (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.

- (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. The Council member is responsible for maintaining records for any required retention periods.
- (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, prejudice, or personal interest that the Council member would then be obligated to address in response to a challenge on that basis.

- (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 7(C) below.
- (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 Council members maintain separate accounts for campaigning, official communications, and personal business.
- (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) Notice. Any Council member who uses social media for City business should include a notice on his or her platform stating the following:
- A. 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.
  - B. All content submitted by members of the public may be subject to public disclosure to third parties under Oregon Public Records law.
  - C. For detailed information on City business please refer to the City's official website: <http://www.bendoregon.gov/>
  - D. Comments should relate to the post and issue being discussed. Once comments are posted, the Elected Official reserves the right to determine which submissions are unacceptable for its page and delete 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, when possible, 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; or (vi) contain solicitations of commerce or charitable or other contributions, except for official City-sponsored activities.

## **2.110 Censure**

- (1) 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, City ordinances, the City Charter or state laws applicable to governing bodies, the Council may take action to protect the integrity of the Council and discipline the member with a public reprimand.
- (2) 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).