

Council Rules Ad Hoc Meeting

3-23-23 – 3:30 pm

Police Station

21900 11th Ave S, Des Moines, WA 98198

Attendees:

Chair: Deputy Mayor Traci Buxton

Members: Mayor Matt Mahoney, Councilmember Harry Steinmetz

Staff: City Manager Michael Matthias, City Attorney Tim George, Chief

Administrative Officer Bonnie Wilkins

Agenda

- 1. Introductory Remarks – Chair**
 - a. History and clarity
 - b. Schedule – what's next
 - c. Memo from City Attorney – **Attachment 1**
- 2. Review of document - all - Attachment 2**
 - a. Seek clarity
 - b. Review any highlighted subjects
- 3. Next Steps**
- 4. Adjourn**

Timothy A. George, City Attorney
21630 11th Avenue So., Suite C
Des Moines, WA 98198
206.870.6553
Fax: 206.870.6872

Attachment #1

Memo

Date: March 17, 2023
To: Ad-Hoc Rules Committee
From: Tim George, City Attorney
Re: City Council Protocol Manual

In July of 2022, an Ad Hoc Rules Committee was created for the purpose of reviewing the City Council's Rules of Procedure and proposing edits. The Committee, consisting of three Councilmembers, met and created a first draft document entitled "City Council Protocol Manual." This draft was forwarded to City staff in October to begin a staff review.

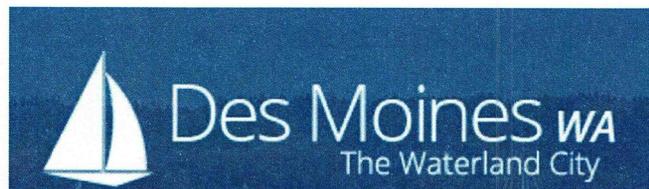
Over the next several months, City staff conducted an in-depth review of the newly drafted City Council Protocol Manual to include analysis of how the new protocols aligned with existing City Codes and policies, reviews of similarly situated agency rules, legal analysis and a practical implementation review of the potential impacts. As a result of this process, staff is bringing forward an amended version of the Protocol Manual with updates intended to clarify the rules, eliminate repetition, ensure conformity with existing Codes and RCW's, and to ensure the intent of the Council is met.

The Committee modeled the Council Protocol Manual after an existing manual used by another Washington City. This Manual is intended to take the place of the current City Council Rules of Procedure. At the outset of this process, the Committee identified a number of areas of emphasis for updated Council rules. These included:

- Roles and Responsibilities of Council, Staff, Committees, and Public
- Ethical Behavior
- Communication clarity and guidance
- Clarity for Council General Meetings
- Clarity about our form of government
- Detail regarding committees, assignments, qualifications, process
- Financial matters
- Enhanced resources (such as; mission statement, City documents, addenda, etc.)

At this point, staff has completed their review and is handing the document back to the Committee for their assessment. Once that is complete, it is anticipated that a third party will review the document and then it will be presented to the City Council for their comments and consideration.

CITY OF
DES MOINES
CITY COUNCIL PROTOCOL MANUAL



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TABLE OF CONTENTS

OATH OF OFFICE	5
FOREWORD.....	6
CHAPTER 1.....	7
INTRODUCTION AND OVERVIEW.....	7
1.01 Council-Manager Form of Government	7
1.02 Purpose of City Council Protocol Manual.....	7
1.03 Association of Washington Cities and Municipal Research Services Center of Washington	7
1.04 Overview of Basic City Documents	7
1.05 Orientation of New Members.....	8
CHAPTER 2.....	9
DES MOINES CITY COUNCIL: GENERAL POWERS AND RESPONSIBILITIES	9
2.01 City Council Generally	9
2.02 Role of Councilmembers	9
2.03 Role of Mayor	10
2.04 Role of Deputy Mayor.....	10
2.05 Acting Mayor	10
2.06 Election of Officers	10
2.07 Appointment of City Manager.....	11
2.08 Council Board and Committee Service	11
2.09 Citizen Advisory Bodies.....	13
2.10 Incompatibility of Offices	13
CHAPTER 3.....	13
SUPPORT PROVIDED TO CITY COUNCIL.....	13
3.01 Staff.....	13
3.02 Electronic Devices.....	13
3.03 Mail and deliveries.....	13
CHAPTER 4.....	13
FINANCIAL MATTERS	13
4.01 Council Compensation	13
4.02 Business, Education, and Travel.....	13
4.03 Financial Disclosure	14
CHAPTER 5.....	14
COMMUNICATIONS	14
5.01 Overview	14
5.02 Councilmember Contact and Information.....	14
5.03 Correspondence from Councilmembers.....	14
5.04 Council Representation	16
5.05 State Public Disclosure Act	16
5.06 Open Public Meetings Act.....	16
5.07 Communication with the Public	16

CHAPTER 6	17
CONFLICTS OF INTEREST, APPEARANCE OF FAIRNESS DOCTRINE, AND LIABILITY OF ELECTED OFFICIALS	17
6.01 Conflicts of Interest.....	17
6.02 Appearance of Fairness Doctrine.....	17
6.03 Liability	19
 CHAPTER 7	 19
INTERACTION WITH CITY STAFF/OFFICIALS	19
7.01 Overview	19
7.02 City Manager Performance Evaluation.....	19
7.03 City Council/City Clerk Relationship.....	20
7.04 City Council/City Attorney Relationship.....	20
7.05 Non-Interference	20
7.06 Access to Information.....	20
7.07 Staff Roles	21
7.08 Councilmember Relationship with Staff.....	21
 CHAPTER 8	 21
CITY COUNCIL MEETINGS	21
8.01 Meeting Schedule.....	21
8.02 Public Notice of Meetings and Hearings	21
8.03 Special Meetings	22
8.04 Placing Items on the Agenda	22
8.05 Recording and Broadcast of Meetings	22
8.06 Order of Business – Regular Meetings	23
8.07 Order of Business – Study Sessions.....	28
8.08 Order of Business – General Procedures	29
8.09 Open Public Meetings Act.....	31
 CHAPTER 9	 31
PROTOCOL ADMINISTRATION	31
9.01 Biennial Review.....	31
9.02 Adherence to Protocol.....	31
9.03 City Attorney as Protocol Advisor	32
 CHAPTER 10	 32
LEAVING OFFICE/FILLING VACANCIES	32
10.01 Return of Materials and Equipment.....	32
10.02 Filling Council Vacancies	32
 CHAPTER 11	 33
PARLIAMENTARY PROCEDURES	33
11.01 Meeting Decorum and Order.....	33
11.02 Obtaining the Floor.....	34
11.03 Interruptions	34
11.04 Discussion Limit	34
11.05 Right of Protest.....	35

CHAPTER 12	35
ADDITIONAL TRAINING AND RESOURCE MATERIALS	35
12.01 Association of Washington Cities [(800) 562-8981]	35
12.02 National League of Cities [(202) 626-3000].....	35
12.03 International City/County Management Association [(202) 289-4262]	35
12.04 Government Finance Officers Association [(312) 977-9700]	35
12.05 Municipal Research & Services Center of Washington [(206) 625-1300]	35

Foreword

In the course of serving as a public official, there are a myriad of issues with which you will become involved. This protocol manual attempts to centralize information on common issues related to local government and your role as a member of the Des Moines City Council.

The issues that are addressed in this publication are often complex and subjective. This manual is intended to be a guide and is not a substitute for the counsel, guidance, or opinion of the City Attorney in accordance with the Revised Code of Washington (RCW).

The protocols included in this reference document have been formally adopted by the City Council. Provisions contained herein will be reviewed as needed.

Chapter 1

Introduction and Overview

As a City Councilmember, you not only establish important and often critical policies for the community, you are also a Board Member of a public corporation having an annual budget that may exceed one hundred million dollars.

1.01 Council-Manager Form of Government

The City of Des Moines is a Council-Manager form of government. As described in the Municipal Code and Revised Code of Washington, certain responsibilities are vested in the City Council and the City Manager. This form of government establishes that a City Council's role, in this specific form of government is that of a legislative policy-making body which determines not only the local laws that regulate community life, but also determines what public policy is, and gives direction to the City Manager to administer the affairs of the city government.

1.02 Purpose of City Council Protocol Manual

The City of Des Moines has prepared its own protocol manual to assist the City Council by documenting accepted practices and clarifying expectations. This Manual has been formally adopted by the City Council and is binding on all Councilmembers.

1.03 Association of Washington Cities and Municipal Research & Services Center of Washington

[The Code City Handbook, Report No. 37](#), published by the Municipal Research & Services Center (MRSC), provides a wealth of general information on the major functions of a Councilmember's job as a locally elected official. Another publication from MRSC that goes hand in hand with the handbook is, [Knowing the Territory](#). This report discusses basic powers; basic duties, liabilities, and immunities of officers; conflict of interest and appearance of fairness; prohibited uses of public funds, property, or credit; competitive bidding requirements; the Open Public Meetings Act; Open Government-Public Records-Freedom of Information; and immunities from tort liability. These two documents have been included as resources in creating this protocol manual.

1.04 Overview of Basic City Documents

This protocol manual provides a summary of important aspects of City Council activities. However, it cannot incorporate all material and information necessary for undertaking the business of the City Council. Many other laws, plans, and documents exist which bind the City Council to certain courses of action and practices. The following is a summary of some of the most notable documents that establish City Council direction.

A. [Revised Code of Washington](#)

The state laws contain many requirements for the operation of city government and administration of meetings of city councils throughout the state. Des Moines is an "optional code city," which means it operates under the general laws of the state. As an optional code city of the State of Washington, Des Moines is vested with all the powers of incorporated cities as set forth in the Revised Code of Washington (RCW), Constitution of the State of Washington, and Des Moines Municipal Code.

B. [Des Moines Municipal Code](#)

The municipal code contains local laws and regulations adopted by ordinances. Titles 2 and 4 of the code address the role of the City Council, describes the organization of City Council meetings and responsibilities and appointment of certain City staff positions and advisory boards and commissions. In addition to these administrative matters, the municipal code contains a variety of laws including, but not limited to, zoning standards, health and safety issues, traffic regulations, building standards, and revenue and finance issues.

- C. [Vision/Mission Statement](#)
[Vision, Mission & Business Plan - City of Des Moines, WA \(desmoineswa.gov\)](#)

- D. [City Budget](#)
The budget is the primary tool and road map for accomplishing the goals of the City. The budget document is the result of one of the most important processes the City undertakes. By adopting the annual budget, the City Council makes policy decisions, sets priorities, allocates resources, and provides the framework for government operations.
Please note: The City Manager is required, by state statute, to present a recommended budget to the City Council in October of the preceding year of the budget. The City Council must hold at least two public hearings on the budget before they can approve the budget with any adopted changes.

- E. [Annual Comprehensive Financial Report \(ACFR\)](#)
The annual financial report includes the financial statements of the City for a calendar year. It includes the financial condition of the City as reflected in the balance sheet, the results of operations as reflected in income statements, an analysis of the uses of City funds, and related footnotes. The annual financial report includes statements for the various groups of funds and a consolidated group of statements for the City as a whole.

- F. [Comprehensive Plan](#)
A state-mandated comprehensive plan addresses the City's long-range planning needs relative to land use, transportation, economic development, and other planning elements such as employment and residential growth targets. The City's comprehensive plan, *Imagine Des Moines...* is reviewed on an ongoing basis, but may only be revised once a year, except as provided by State law.

- G. [Six-year Capital Improvement Program](#)
The Six year Capital Improvement Program serves as a guide for determining priorities, planning, financing, and constructing capital projects which add to, support, or improve the physical infrastructure, capital assets, or productive capacity of city services.

1.05 Orientation of New Members

It is important for the members of the City Council to gain an understanding of the full range of services and programs provided by the City. As new members join the City Council, the City Manager and City Clerk provide an orientation session for new members to meet with key staff within the first quarter of taking office.

Another training opportunity for new members is the Association of Washington Cities-sponsored newly elected officials' orientation. At any time, if there are facilities or programs about which you would like more information, arrangements will be made to increase your awareness of these operations.

Chapter 2

Des Moines City Council: General Powers and Responsibilities

2.01 City Council Generally

Fundamentally, the powers of the City Council are to be utilized for the good of the community and its residents; to provide for the health, safety and general welfare of the citizenry. The City Council is the policy-making and law-making body of the City. State law and local ordinances grant the powers and responsibilities of the Council.

In carrying out their public role and in representing the positions of the Council body, Councilmembers should respect adopted Council policy. In turn, it is staff's responsibility to ensure the policy of the Council is upheld.

- A. Council Non-Participation in Administration
[RCW 35A.13.120](#) specifically prohibits interference by Councilmembers in the City's administrative service, including the hiring, firing, and work of city staff, with the exception of the City Manager.
- B. Code of Conduct/Ethics Code
DMMC 2.44
[Chapter 2.44 CODE OF ETHICS \(codepublishing.com\)](#)

2.02 Role of Councilmembers

Members of the Des Moines City Council are collectively responsible for establishing policy, adopting an annual budget, and providing vision and goals to the City Manager. The following outline is a brief description of the various duties of Councilmembers. The description is not intended to be comprehensive, but rather is an effort to summarize the primary responsibilities of the Council.

Summary of Council Duties and Responsibilities as provided in, but not limited to, the Washington Administrative Code and Revised Code of Washington:

- A. Establish Policy
 1. Adopt goals and objectives
 2. Establish priorities for public services
 3. Approve/amend the operating and capital budgets
 4. Approve contracts over \$50k
 5. Adopt resolutions
- B. Adopt City Ordinances
- C. Appoint City Manager
 1. Evaluate performance of City Manager
- D. Boards and Commissions
 1. Establish advisory boards and commissions
 2. Approve appointments to advisory bodies
 3. Provide direction to advisory bodies

- E. Provide Public Leadership
 1. Communicate the City's vision and goals to constituents
 2. Represent the City's interest at regional, county, state, and federal levels through participation in regional boards and commissions, as appointed by Mayor or Council.
 3. Call special elections as necessary
 4. Constituent communication to City Manager

- F. Decision-Making
 1. Participate in assigned committees
 2. Study problems
 3. Review alternatives
 4. Determine best course of public policy

2.03 Role of Mayor

- A. Presiding Officer

The Mayor serves as the presiding officer and acts as chair at all meetings of the City Council. The Mayor may participate in all deliberations of the Council in the same manner as any other members and is expected to vote in all proceedings, unless a conflict of interest exists. The Mayor does not possess any power of veto.

- B. Ceremonial Representative

Responsibility to act as the City Council's ceremonial representative at public events and functions has been assigned to the Mayor. The Mayor shall have no regular administrative or executive duties.

- C. Proclamations

The Mayor is vested with the authority to initiate and read and sign Council approved proclamations.

- D. See also Section 5.4.

2.04 Role of Deputy Mayor

In case of the Mayor's absence or temporary disability, the Deputy Mayor shall act as Mayor during the continuance of the absence. When the Deputy Mayor acts as Mayor by participating in preparation of a council meeting agenda or study session worksheet, or by presiding at a meeting of the Council, the Deputy Mayor shall have authority only to approve the Council meeting agenda or study session worksheet as to form, without introducing or deleting items of business, and to preside at the meeting by following the approved agenda or study session worksheet as written.

2.05 Acting Mayor

When both the Mayor and Deputy Mayor are absent, the Council may choose from among its members a person to serve with the powers of the Deputy Mayor.

2.06 Election of Officers

Procedures for electing officers are as follows:

- A. Biennial Election of Mayor and Deputy Mayor

Biennially, at the first meeting of the new Council, Councilmembers will choose a presiding officer from their number who will have the title of Mayor. In addition to the powers conferred upon them as Mayor, they will continue to have all the rights, privileges and immunities of a member of the Council. If a permanent vacancy occurs in the Office of Mayor, the members

of the Council at their next regular meeting will select a Mayor from their number for the unexpired term. Following the election of the Mayor, if the Deputy Mayor is selected as the new Mayor, there will be an election for Deputy Mayor. The term of the Deputy Mayor will run concurrently with that of the Mayor.

1. Nominations

The election for Mayor shall be conducted by the City Clerk. The City Clerk shall call for nominations. Each member of the City Council shall be permitted to nominate one (1) person who has previously served on the Council for a minimum of two years, and nominations shall not require a second. A nominee who wishes to decline the nomination shall so state at this time. Nominations are then closed. The election for Deputy Mayor shall be conducted by the newly-elected Mayor, and nominations shall be made in the manner previously described for the election of the Mayor. Candidates for Deputy Mayor shall have previously served on the Council for a minimum of one year. The minimum experience condition for candidacy for Mayor or Deputy Mayor may be waived by a vote of five Councilmembers.

B. Casting Ballots

Except when there is only one nominee, election will be by audible vote; each Councilmember declaring a vote into the record. The City Clerk will publicly announce and record the results of the election in the official minutes, stating the name of each voting Councilmember and the manner in which the Councilmember voted. To be elected, a nominee must receive a majority vote of the members present.

C. Unable to Agree

In the event that the Council is unable to agree on a Mayor by majority vote of the members present, the Office of Mayor shall be temporarily filled by an Acting Mayor. The Acting Mayor shall be the Councilmember who just previously served as Mayor; or if such person is not a member of the Council, the Councilmember who just previously served as Deputy Mayor; or if such person is not a member of the Council, the Councilmember with the highest seniority as determined by the City Attorney.

In the event that the Council is unable to agree on a Deputy Mayor, the appointment of Deputy Mayor shall be filled in the same manner as described above.

The Acting Mayor and Acting Deputy Mayor shall continue in office and exercise such authority as is described in Chapter 35A.13 RCW until the members of the Council agree on a Mayor, at which time the Office of Acting Mayor and Acting Deputy Mayor shall cease and terminate.

D. Resignation of Mayor or Deputy Mayor

If the Mayor or Deputy Mayor resign, the City Council will appoint a new Mayor or Deputy Mayor using the procedure outlined above, as soon as practical.

2.07 Appointment of City Manager

The City Council is responsible for appointing one position within the City organization, the City Manager. The City Manager serves at the pleasure of the Council.

2.08 Council Board and Committee Service

A. Committees of the Council

Committees of the Council are comprised of a collaboration of Councilmembers and Staff, and are designed to review, discuss, and vet potential plans and decisions that may come before the Council body. These committees may make recommendations on proposed

ordinances, resolutions, or motions within their area of expertise.

The procedures governing all committees of the Council shall be as follows:

1. The following standing committees shall consist of three members of the Council appointed by the Mayor in January following an election, or at such time as new standing committees are authorized; Environment, Municipal Facilities, Public Safety and Emergency Management, Transportation, and Economic Development.
2. In addition to standing advisory committees, special purpose or Ad Hoc committees and task forces may be appointed by the Mayor to address issues of interest or to conduct background work on technical or politically sensitive issues. Special or ad-hoc committees will be dissolved upon completion of the intended task.
3. Minutes shall be kept of each City Council standing and special committee meeting, listing discussion topics, comments made, and any final recommendations.
4. Standing committees of the Council are open public meetings, shall be noticed to the public, and be recorded and available to the public for viewing.
5. During the appropriate portion of the regular City Council meeting, the Committee Chair shall report back to the Council regarding items of discussion, progress, or plans.
6. Councilmembers may be appointed or removed by the Mayor.

Councilmembers shall not serve on appointed City Advisory Bodies concurrent with their term of office as Councilmember.

However, at the discretion of the Mayor, Councilmembers may be appointed as liaison to one or more Council-established Citizen Advisory Bodies or other Community agencies/organizations. In their capacity as a Council liaison, a Councilmember shall:

1. Attend meetings on time and conduct themselves with respect, honoring the chair and members of the appointed or community body.
2. Participate only as requested by the Chair in answering questions or representing the will or opinion of the Council as a whole, and shall not interact as a member of the body by engaging with questions, discussion, or voting.
3. Report back to Staff and/or Council as appropriate with updates, progress and/or questions posed by community members. This should be done in a timely manner and may be done from the dais during Board and Committee Reports as appropriate.

B. Regional Boards and Committees

Members of the City Council are often requested to serve on outside boards, councils, commissions, or committees. This type of representation serves to facilitate communication and provide interaction with other governmental bodies.

1. Membership appointment to these groups shall be made, or authorized by the Mayor for a 2-year period. If more than one Councilmember desires to serve as a member of a particular outside group, the member will be appointed by the Mayor.
2. Where applicable, the Mayor will appoint an alternate to attend outside boards, councils, commissions, or committees. The main delegate will notify the alternate as soon as possible after they realize they will be unable to attend an upcoming meeting of the outside group.
3. Councilmembers participating in policy discussions at regional meetings will represent the consensus of the Council, except where regional appointment requires regional opinion. Personal positions, when given, will be identified and not represented as the position of the City.

4. Assignment and direction of staff in relation to regional meetings are at the discretion of the City Manager.

2.09 Citizen Advisory Bodies

The Council policy regarding Citizen Advisory Bodies is found in DMMC Title 4.

[Title 4 COUNCILS AND APPOINTIVE COMMITTEES \(codepublishing.com\)](http://codepublishing.com)

2.10 Incompatibility of Offices

Councilmembers shall not simultaneously hold any other elected position, an incompatible public office or employment within the City government except as permitted under the provisions of RCW 42.23, 35A.12 and 35A.13.

Chapter 3

Support Provided to City Council

3.01 Staff

The use of City staff to provide support for a Councilmember is limited to that which is authorized by the City Manager.

Councilmembers are responsible to keep their own calendars and make their own appointments.

3.02 Electronic Devices

A computer and phone will be provided to each Councilmember for the conducting of City business. The IT staff will ensure that all appropriate software is installed and will also provide an orientation in the use of computers and related software. While staff will maintain those computer applications related to City affairs, staff cannot provide assistance for personal computer applications. Personal media and programs cannot be stored on City computers. Councilmembers must adhere to all policies under the City of Des Moines IT Security Policies.

Throughout Councilmember terms, City equipment is subject to audit. Virus protection software must not be disabled at any time on City equipment and non-city programs or media found during audits will be removed. When individual Councilmembers have completed their term of office, IT staff will retrieve City computers, software, and phones.

3.03 Mail and Deliveries

Members of the City Council receive mail and other materials that are delivered through the use of mailboxes located at City Hall. Councilmembers are encouraged to check mailboxes often.

Chapter 4

Financial Matters

4.01 Council Compensation

The municipal code provides for payment of a stipend to members of the City Council. A seated City Council may not increase or decrease its own compensation. Councils may only pass an ordinance to adjust the compensation of a future City Council. Currently, Council salaries are set as provided in chapter 4.08 DMMC and [RCW 35.21.015](#).

4.02 Business Education and Travel

When determined by the City Council to be in the best interests of the City, Councilmembers may attend conferences and workshops, take part in educational or leadership opportunities, and conduct City business which may require travel, tuition, fees, or registration costs. Councilmembers may be reimbursed for these expenses under the following guidelines:

- A. The Administration will keep account of Councilmember expenses.
- B. When the Councilmember makes arrangements or incurs eligible expenses as determined by the Council, the Councilmember shall provide receipts for reimbursement.

4.03 Financial Disclosure

Candidates for the office of Councilmember shall file a financial disclosure statement with the State Public Disclosure Commission in accordance with State law. When appointed to fill a vacancy on the Council, the appointee shall file a financial disclosure statement with the Commission, covering the preceding 12-month period, within two weeks of being appointed. Councilmembers are required to file a financial disclosure statement with the Commission on an annual basis after January 1 and before April 15 of each year covering the previous calendar year. Councilmembers whose terms expire on December 31 shall file the statement for the year that ended on that December 31. Statements filed in any of the above cases will be available for public inspection.

Failure to file or filing a false or incomplete financial disclosure statement, if done knowingly, is a Class 1 Misdemeanor. There are also civil penalties for violations.

Chapter 5 Communications

5.01 Overview

Perhaps the most fundamental role of a Councilmember is communication. This is essential to engage with the public to assess community opinions and needs, and to share the vision and goals of the City with constituents. In addition, connection with the staff provides policy direction and assists in understanding the implications of various policy alternatives.

Because the City Council performs as a body, based on the will of the majority as opposed to individuals, it is important that general guidelines be understood when speaking for the Council. Equally important, when members are expressing personal views and not those of the Council, the public should be advised.

5.02 Councilmember Contact and Information

A page on the City of Des Moines website will display information about each councilmember for community reference, which will include:

- A. A color photo
- B. A short biography/resume
- C. List of assignments or designations
- D. Phone number and email

5.03 Correspondence from Councilmembers

Councilmembers are committed to open communications in their capacity as elected officials. Individual Councilmembers use a variety of methods to communicate with the public, stakeholders, partners, and the media. Social media platforms offer a way to deliver public information and customer service to constituents and give community members another means to interact with their government.

The purpose of this policy is to establish standards for Council communication with the public, when Councilmembers are acting in their official capacity or commenting on City government matters, either through traditional media outlets or the use of social media platforms or personal accounts or pages.

The Council believes that the following standards will provide consistency in procedures and allow for use of more tools to communicate with the public.

- A. The content and tenor of all public communications shall model the same professional behavior displayed during Council meetings and community meetings, and reflect well on the individual Councilmember, the Council as a whole, and the community.
- B. The following disclaimers shall be included in whole or referenced with a link to the disclaimers for all communications initiated by Councilmembers in open forums.
 - 1. The views expressed represent the views of the author and may not reflect the views of the City of Des Moines or the Des Moines City Council.
 - 2. Responses to this communication by other Councilmembers may be limited by the provisions of the Open Public Meetings Act under which a policy discussion or other action taken must be held in an open public meeting if a quorum of the Council participates.
 - 3. Comments posted in response to a Councilmember-initiated communication may be subject to public disclosure under chapter 42.56 RCW, the Public Records Act.
- C. Media outlets such as newspapers, radio and television news coverage may be used as communications medium by individual Councilmembers provided that the communication clearly states that the views expressed do not represent those of the City Council or the City of Des Moines, but the views of the individual Councilmember.
- D. Communications initiated by Councilmembers. Guest editorials, letters to the editor and blog posts published by Councilmembers should be provided to the full Council at the same time they are delivered to the media outlet. Drafts of guest editorials, letters to the editor or blog posts which may be submitted on behalf of the Council as opposed to an individual Councilmember may not be circulated for comment to a quorum of the Council prior to publication as this may violate the Open Public Meetings Act.
- E. Use of Social Media. Posts to social media sites such as, blogs, Facebook, and Twitter may be used by individual Councilmembers to communicate with the public provided the following guidelines are used:
 - 1. Blog posts or other posts to social media sites should include, or reference a link which includes the disclaimers listed in Section 5.03.B.
 - 2. Social media sites are not to be used for the conduct of Council business other than to informally communicate with the public. Public notices, items of legal or fiscal significance that have not been released to the public, and discussion of quasi-judicial matters may not be included in Councilmembers social media posts. Councilmembers are encouraged to maintain social media sites with settings that can restrict users' ability to comment in order to avoid inadvertent discussions of these items. Unsolicited public comments on quasi-judicial matters must be placed on the record by the Councilmember at the time the matter is before the Council for consideration.
 - 3. In order to demonstrate openness and a willingness to listen to the entire community, Councilmember posts on social media sites should be made through a public-facing page or by marking individual posts as available to the public as a whole.
 - 4. When commenting on a post or an article published by someone other than a Councilmember, a link to the standard disclaimers in Section 5.03.B should be included within the thread.

F. If a Councilmember makes a factual error in a public communication, it should be corrected as soon as the error is discovered. Blog posts may be corrected by amending a previous post with a note that a correction was made.

G. Councilmembers shall not take actions, in writing, speaking, or otherwise, outside the public meeting(s) that undermine the decisions of the body. Public expression of dissent and protest outside the open public meeting is inappropriate unethical behavior.

H. Councilmembers may occasionally be asked to prepare letters of recommendation for students or others seeking employment or appointment. In this case, Councilmembers may request City letterhead and their Council titles for such letters, upon approval from the Mayor. City letterhead and staff support cannot be utilized for personal or political purposes.

*9:30
1/5/2014*

THE WAY THIS IS WRITTEN IS FINE.

5.04 Council Representation

To promote a favorable image of the City and pursue resources or relationships that will benefit the community, the Mayor, or another Councilmember designated by the Council, may take the lead in representing the City of Des Moines to other partners and representatives including, but not limited to; businesses, other local governments, regional agencies and organizations, and state, federal and international governments.

A. Councilmembers shall not conduct communication or business in this manner without the authorization of the Administration or the City Council.

B. Neither the Mayor, nor a Councilmember, can commit the City without authorization of a majority of the City Council.

C. The Mayor, or another Councilmember designated by the City Council, shall be the spokesperson about actions taken by the Council. On behalf of the City Council, the Mayor or designated Councilmember may inform the public, media, and staff about issues affecting the community.

5.05 State Public Disclosure Act

The City Council is bound by State Public Records Act and City records policies. Please refer to Resolution No. 1185

[142.pdf \(civillive.com\)](#)

5.06 Open Public Meetings Act

The City Council is bound the State Open Public Meetings Act. More information can be found at

[Open Government Training | Washington State](#)

5.07 Communication with the public

A. If a Councilmember receives communication from a member of the community, the Councilmember shall not attempt to address it or resolve it individually but will refer that matter directly to the City Manager for their review and/or action. The individual Councilmember may request to be informed of the action or response made to the complaint.

B. Written Communications:

Letters, correspondence, and memoranda received by the City, addressed to a Councilmember or the Council as a body, shall be provided to all City Councilmembers.

C. E-mail:

1. If a community member sends an e-mail to a Councilmember and requests that it be included in the record of a particular public hearing, the Councilmember will forward said e-mail to the City Clerk.

2. If a Councilmember wishes that an e-mail be distributed to a City staff member, the Councilmember will forward said e-mail to the City Manager.

3. E-mail communications that are intended to be shared among four or more Councilmembers, whether concurrently or serially must be considered in light of the Open

Public Meetings Act. If the intended purpose of the e-mail is to have a discussion that should be held at an open meeting, the electronic discussion should not occur. Further, the use of e-mail communication to form a collective decision of the Council is inappropriate.

4. E-mail should be used cautiously when seeking legal advice or if discussing matters of pending litigation or other "confidential" City business. In general, e-mail is discoverable in litigation, and even deleted e-mail is not necessarily removed from the system. Confidential e-mail communications should not be shared with individuals other than the intended recipients, or the attorney-client privilege protecting the document from disclosure may be waived.
 - a. E-mail between Councilmembers, and Councilmembers and staff shall not be transmitted to the public or news media unless a public disclosure request has first been filed with the City Clerk.
 - b. City email shall not be used for personal communication.

Chapter 6

Conflicts of Interest, Appearance of Fairness Doctrine, and Liability of Elected Officials

6.01 Conflicts of Interest

In the course of conducting City business, it is essential that Councilmembers understand and are able to identify if and where they may have conflicts of interest. If there is ever a question, consultation with the City Attorney is advised.

City Councilmembers are bound by the Conflict of Interest provisions of chapter 2.44 DMMC as well as chapter 42.23 RCW.

6.02 Appearance of Fairness Doctrine

Appearance of Fairness Doctrine and its Application.

- A. Appearance of Fairness Doctrine Defined. "When the law which calls for public hearings gives the public not only the right to attend but the right to be heard as well, the hearings must not only be fair but must *appear* to be so. It is a situation where appearances are quite as important as substance. The test of whether the appearance of fairness doctrine has been violated is as follows: Would a disinterested person, having been apprised of the totality of a boardmember's personal interest in a matter being acted upon, be reasonably justified in thinking that partiality may exist? If answered in the affirmative, such deliberations, and any course of conduct reached thereon, should be voided." Zehring v. Bellevue, 99 Wn.2d 488 (1983).
- B. Types of Hearings to Which Doctrine Applies. The appearance of Fairness Doctrine shall apply only to those actions of the Council which are quasi-judicial in nature. Quasi-judicial actions are defined as actions of the City Council which determine the legal rights, duties, or privileges of specific parties in a hearing or other contested proceeding. Quasi-judicial actions do not include the legislative actions adopting, amending, or revising comprehensive, community, or neighborhood plans or other land use planning documents of the adoption of area-wide zoning ordinances or the adoption of a zoning amendment that is of area-wide significance. RCW 42.36.010. Some examples of quasi-judicial actions which may come before the Council are: rezones or reclassifications of specific parcels of property, appeals from decisions of the Hearing Examiner, substantive appeals of threshold decisions under the State Environmental Protection Act, subdivisions, street vacations, and special land use permits. City staff is advised to notify the City Council upon receipt of an application or decision which will result in an action before the City Council that is quasi-judicial in nature.
- C. Obligations of Councilmembers, Procedure.

1. Councilmembers should recognize that the Appearance of Fairness Doctrine does not require establishment of a conflict of interest, but whether there is an appearance of conflict of interest to the average person. This may involve the Councilmember or a Councilmember's business associate or a member of the Councilmember's immediate family. It could involve ex parte communications, ownership of property in the vicinity, business dealings with the proponents or opponents before or after the hearing, business dealings of the Councilmember's employer with the proponents or opponents, announced predisposition, and the like.

Prior to any quasi-judicial hearing, each Councilmember should give consideration to whether a potential violation of the Appearance of Fairness Doctrine exists. If the answer is in the affirmative, no matter how remote, the Councilmember should disclose such facts to the City Manager who will seek the opinion of the City Attorney as to whether a potential violation of the Appearance of Fairness Doctrine exists. The City Manager shall communicate such opinion to the Councilmember and to the Presiding Officer.

2. Anyone seeking to disqualify a Councilmember from participating in a decision on the basis of a violation of the Appearance of Fairness Doctrine must raise the challenge as soon as the basis for disqualification is made known or reasonably should have been made known prior to the issuance of the decision; upon failure to do so, the Doctrine may not be relied upon to invalidate the decision. The party seeking to disqualify the Councilmember shall state with specificity the basis for disqualification; for example: demonstrated bias or prejudice for or against a party to the proceedings, a monetary interest in outcome of the proceedings, prejudgment of the issue prior to hearing the facts on the record, or ex parte contact. Should such challenge be made prior to the hearing, the City Manager shall direct the City Attorney to interview the Councilmember and render an opinion as to the likelihood that an Appearance of Fairness violation would be sustained in superior court. Should such challenge be made in the course of a quasi-judicial hearing, the Presiding Officer shall call a recess to permit the City Attorney to make such interview and render such opinion.
3. The Presiding Officer shall have sole authority to request a Councilmember to excuse himself/herself on the basis of an Appearance of Fairness violation. Further, if two (2) or more Councilmembers believe that an Appearance of Fairness violation exists, such individuals may move to request a Councilmember to excuse himself/herself on the basis of an Appearance of Fairness violation. In arriving at this decision, the Presiding Officer or other Councilmembers shall give due regard to the opinion of the City Attorney.
4. Notwithstanding the request of the Presiding Officer or other Councilmembers, the Councilmember may participate in any such proceeding.

D. Specific Statutory Provisions.

1. Candidates for the City Council may express their opinions about pending or proposed quasi-judicial actions while campaigning. RCW 42.36.040.
2. A candidate for the City Council who complies with all provisions of applicable public disclosure and ethics laws shall not be limited under the Appearance of Fairness Doctrine from accepting campaign contributions to finance the campaign, including outstanding debts. RCW 42.36.050.
3. During the pendency of any quasi-judicial proceeding, no Councilmember may engage in ex parte (outside the hearing) communications with proponents or opponents about a proposal involved in the pending proceeding, unless the Councilmember: (a) places on the record the substance of such oral or written communications; and (b) provides that a public announcement of the content of the communication and of the parties' right to rebut the substance of the communication shall be made at each hearing where action is taken or considered on the subject. This does not prohibit correspondence between a citizen and his or her elected

official if the correspondence is made a part of the record, when it pertains to the subject matter of a quasi-judicial proceeding. RCW 42.36.060.

6.03 Liability

The City must always approach its responsibilities in a manner that reduces appropriate risk to all involved. Nevertheless, with such a wide variety of high profile services (i.e., police, parks, roads, land use), risk cannot be eliminated. To better manage insurance and risk, the City participates in risk- and loss-control activities.

It is important to note that violations of certain laws and regulations by individual members of the City Council may result in the member being personally liable for damages which would not be covered by the City's insurance.

DMMC 2.24.030 identified the exclusions to insurance coverage as follows:

The obligations assumed under this chapter by the city and the city attorney shall not apply to:

- A. Any dishonest, fraudulent, criminal, or malicious act of any official or employee;
- B. Any act of an official or employee which is not performed on behalf of the city;
- C. Any act which is outside the scope of an official's or employee's service or employment with the city; or
- D. Any lawsuit brought by or on behalf of the city.

The determination of whether an official or employee is entitled to a defense by the City under shall be made by the City Attorney. There shall be no appeal from such determination, except to the superior court by means of an action for declaratory judgment.

For more information, see Chapter 2.24 DMMC.

Chapter 7 Interaction with City Staff/Officials

7.01 Overview

City Council policy is implemented through dedicated and professional staff. Therefore, it is critical that the relationship between Council and staff be well understood by all parties so policies and programs may be implemented successfully. To support effective relationships, it is important that roles are clearly recognized.

The employment relationship between the City Council and City Manager honors the fact that the City Manager is the chief executive of the City. All dealings with the City Manager, whether in public or private, should respect the authority of the City Manager in administrative matters.

7.02 City Manager Performance Evaluation

In accordance with DMMC 2.04.050, all members of the City Council will be required to participate in a review of the City Manager.

Prior to the process, the City Attorney will distribute evaluation forms to all Councilmembers for review, completion, and return within 14 days of receipt. The forms will be collated into one document for review before the evaluation date.

The members of the Council will use the collated document to review the City Manager during Executive Session.

7.03 City Council/City Clerk Relationship

The City Clerk is appointed by the City Manager. The City Clerk shall keep minutes as required by the Revised Code of Washington and Robert's Rules of Order, including a specific action item section, and shall perform such other and further duties in the meeting as may be required by the Council, Presiding Officer, or City Manager. In the absence of the City Clerk, the City Manager shall appoint a replacement to act as Clerk of the Council

7.04 City Council/City Attorney Relationship

The City Attorney is the legal advisor for the Council, its committees, commissions and boards, the City Manager, and all City officers and employees with respect to any legal question involving an official duty or any legal matter pertaining to the affairs of the City.

It is important to note that the City Attorney does not represent, or advise, individual members of Council, but rather the City Council as a whole.

7.05 Non-Interference

In accordance with RCW 35A.13.120, the City Council is to work through the City Manager when dealing with administrative services of the City. In no manner, either directly or indirectly, shall a Councilmember become involved in, or attempt to influence or criticize personnel matters or individual staff members, who are under the direction of the City Manager.

→ Public criticism of staff by Councilmembers is inappropriate and unethical.

Individual Councilmembers may not intervene in staff decision-making, the development of staff recommendations, scheduling of work, or executing department priorities. Following this RCW is necessary in order to protect staff from undue influence and pressure from individual Councilmembers, and to allow staff to execute priorities given by management and the Council as a whole without fear of reprisal.

The City Council shall not be involved in, or influence, the purchase of any supplies beyond the requirements of the City procurement code/procedures.

If a Councilmember wishes to influence the actions, decisions, recommendations, or priorities of staff, that member must prevail upon the Council to do so as a matter of Council policy

7.06 Access to Information

The City Manager is the information liaison between Council and City staff. Requests for information from Councilmembers are to be directed to the City Manager. The information requested will be copied to all members of Council so that each member may be equally informed.

→ There are limited restrictions when information cannot be provided. The City is legally bound to protect certain confidential personnel information. Likewise, certain aspects of police department affairs (i.e., access to restricted or confidential information related to crimes) may not be available to members of the City Council.

No Councilmember shall request or direct the City Manager or Department Directors to initiate any action or prepare any report, or initiate any project or study without the consent of a majority of the Council.

The full City Council retains the authority to accept, reject, or amend the staff recommendation on policy matters.

7.07 Staff Roles

The Council recognizes the primary functions of staff as executing Council policy and actions taken by the Council. Staff is directed to reject any attempts of individual Councilmembers to unduly direct or otherwise pressure them into making, changing, or otherwise influencing recommendations.

7.08 Councilmember Relationship with Staff

Staff support and assistance may be provided to advisory boards, commissions, and task forces. Advisory bodies, however, do not have supervisory authority over City employees. While staff may work closely with advisory bodies, staff members remain responsible to their immediate supervisors and, ultimately, the City Manager.

When Councilmembers are acting as Liaisons they shall not direct staff.

Chapter 8 City Council Meetings

The City Council's collective policy and law-making powers are put into action exclusively at the council meetings. It is here that the Council conducts its business. The opportunity for community members to be heard, the availability of local officials to the public, and the openness of council meetings all lend themselves to the essential democratic nature of local government.

8.01 Meeting Schedule

Council business meetings are generally held the first, second, and fourth Thursdays of each month, convening at 6:00 p.m., in the Council Chambers at Des Moines City Hall, 21630 11th Ave S, Suite C, Des Moines WA, 98198. The first Thursday is intended to be reserved as a study session.

If Council Meetings are moved to alternate location or conducted remotely they will be noticed publicly at least 24 hours in advance in accordance with the State law.

8.02 Public Notice of Meetings and Hearings

Pursuant to [RCW 35.22.288](#), cities are charged with establishing a procedure for notifying the public of upcoming hearings and the preliminary agenda for the forthcoming council meeting. The procedure followed by the City of Des Moines is as follows:

A. Open to the Public

All meetings of the City Council and of committees thereof shall be open to the public, except as provided for in RCW 42.30.110 or RCW 42.30.140.

B. Notices of Public Hearing

Except where a specific means of notifying the public of a public hearing is otherwise provided by law or ordinance, notice of upcoming public hearings before the City Council shall be given by public notice containing the time, place, date, subject, and body before whom the hearing is to be held, using the City's official notification process at least ten (10) days before the date set for the hearing.

C. Preliminary Agenda of Council Meeting

The public shall be notified of the preliminary agenda for the forthcoming regular City Council meeting by posting a copy of the agenda in the following public places in the City at least 24 hours in advance of the meeting:

Des Moines City Hall
21630 11th Ave So
Des Moines, WA 98198

Website: The City's Official Website: desmoineswa.gov
Des Moines Libraries
Des Moines Marina
Redondo

8.03 Special Meetings

It is the intent of the Des Moines City Council that the procedures of this Council Rule 8.03 are enforceable to the same extent as RCW 42.30.080, as the City's implementation of the Open Public Meetings Act special meeting requirements set forth at RCW 42.30.080. Procedures for setting a special meeting are as follows:

- A. A special meeting may be called by the Mayor or any four members of the Council
- B. Notice of the special meeting shall be prepared in writing. The notice shall contain the following information about the meeting: time, place, duration of meeting, and business to be transacted. The notice shall be reviewed by the City Attorney for proper legal form. After the preliminary agenda has been approved by the Presiding Officer, a copy of the agenda and supporting materials shall be prepared for Councilmembers, the City Manager, and the press by close of business Friday prior to the Special Council Meeting, except in case of an emergency.
- C. The notice shall be posted on the City's website and Councilmembers will be notified via email of the special meeting. The notice must be delivered at least twenty-four (24) hours prior to the meeting.
- D. When email notice is given to Councilmembers, the City Clerk shall provide confirming follow up of such email notice by making a personal telephone call directly to each Councilmember who has not acknowledged receipt of the email. The City Clerk shall document the date and time of such follow up telephone call.
- E. The notices provided in this section may be dispensed within the circumstances provided by RCW 42.30.080.

8.04 Placing Items on the Agenda

The Presiding Officer, three Councilmembers, or the City Manager may introduce a new item to the preliminary agenda.

The Presiding Officer shall have the option of postponing any item on the agenda until the next regular Council meeting, unless it was introduced by three Councilmembers.

The City Clerk, under the direction of the City Manager, shall arrange a list of such matters according to the order of business and prepare a preliminary agenda for the Council.

After the preliminary agenda has been approved by the Presiding Officer, a copy of the agenda and supporting materials shall be prepared for Councilmembers, the City Manager, and the press by close of business Friday prior to the Regular Council Meeting, except in case of an emergency.

Emergency items may be added to an agenda in accordance with state law.

8.05 Recording and Broadcast of Meetings

The City Clerk, or designee, shall make and keep audio recordings of all standing committee and business meetings of the Des Moines City Council, except those meetings or portions of meetings conducted in Executive Session.

Recordings and related records of all City Council meetings, except as referenced above, shall be retained by the City in accordance with the Washington State Records Retention Schedule.

All public meetings of a quorum of the City Council not exempt from the Open Public Meetings Act held in the Des Moines City Hall at 21630 11th Avenue South should be video recorded and broadcast within the City.

No photos, audio or video recordings shall be made at City Council Meetings, Special Meetings, or during appointed committees, boards, or commissions of the Council, without the consent of the Presiding Officer or a majority of the Council. *WTF? BACK SAYS CODE FROM CURRENT RULE*

8.06 Order of Business – Regular Meetings

The City Council, by adoption of this manual, establishes the general order of meetings. This section details the order of meeting components and gives direction for their conduct. The Presiding Officer may, during a Council meeting, rearrange items on the agenda to conduct the business before the Council more expeditiously. Any ruling by the Presiding Officer relative to rearrangement of items on the agenda may be overruled by a vote of a majority of members present.

The components of business and their order are as follows:

- A. Call to Order and Pledge of Allegiance
- B. Roll Call
- C. Correspondence not Previously Received by Council
- D. Comments from the Public
- E. Committee Chair Reports
- F. City Manager Report/Presentations/Briefings
- G. Consent Agenda
- H. Ceremonial Matters, Proclamations (reading)
- I. Public Hearings
- J. Unfinished Business
- K. New Business
- L. New Agenda Items for Consideration
- M. Councilmember Reports
- N. Presiding Officer's Report
- O. Executive Session (as required)
- P. Next Meeting Date
- Q. Adjournment

Conduct of Business:

- A. Call to Order/Pledge
- B. Roll Call
 - a. (For procedure to excuse an absence see 8.09.E)
- C. Correspondence not previously received by Council
- D. Comments from the Public

Public Comments are encouraged and appreciated. All Public Comment will be recorded and become part of the Public Record, which is available to the Public on the City website. Public comment is provided as an informational and educational tool for the Council. The information and advice received from citizens helps the City Council make the best possible decisions. Public comment is for the benefit of the Council and is not provided as an opportunity to speak to, inform, or educate the community.

The following rules have been established in order to ensure that all individuals wishing to address the City Council are fairly heard:

- a. The following language will be added to the published agenda under Public Comment:
"During this item, the Presiding Officer will invite public comment. Those testifying or providing public comment will be limited to three minutes. Citizens representing a group will be allowed up to five minutes to speak. No speaker may convey or donate their time

- for speaking time to another speaker.
- b. Persons wishing to address the Council, who are not specifically scheduled on the agenda shall first fill out a sign-in sheet, stating their name, City of residence, and public comment topic, and the sign-in sheet shall be submitted to the City Clerk prior to the start of Public Comment.
 - c. Citizens who have signed in will be invited by the Presiding Officer to the podium. Speakers will first state their name and City of residence and be allowed three minutes to speak.
 - d. Except where permission is granted by the Presiding Officer, all remarks shall be made only from the designated podium and addressed to the Council as a body, and not to individual members, the audience, or the cameras.
 - e. No person other than the Council and the person having the floor will be permitted to enter into any discussion, either directly or through a member of the Council, without the permission of the Presiding Officer.
 - f. The Presiding Officer or designee shall notify the individual when the allotted time has expired and the speaker shall promptly conclude their remarks. All speakers are encourage to submit supplemental or detailed written remarks for Council consideration.
 - g. Public comments with regard to subjects of a Public Hearing must be made during the Public Hearing portion of the meeting. If information pertaining to a public hearing is presented during the general comment period, the speaker will be ruled, "Out of Order" by the Presiding Officer and asked to save their comments for the Public Hearing.
 - h. Any person or speaker who becomes a disruption to the meeting by making personal, impertinent, or slanderous remarks, or who becomes boisterous, threatening, or personally abusive while addressing the Council, may be ordered to leave the meeting. The Presiding Officer has the authority and duty to preserve order at all meetings of the Council, to cause the removal of any person from any meeting for disorderly conduct and to enforce these rules.
 - i. At the pleasure of the Presiding Officer or by a motion and agreement of a Council majority, following a public comment, a matter may be placed on the current agenda or a future agenda, or be referred to the administration or a council committee for investigation and report. A vote of a Council majority may also overrule the decision of the Presiding Officer in this case.
 - j. Citizens are encouraged to supplement correspondence through written submittals. Written correspondence may be submitted to the Council at any time by email, citycouncil@desmoineswa.gov or mailing or otherwise delivering to the City Clerk, 21630 11th Ave So, Des Moines, WA 98198. A copy of all correspondence will be distributed to each Councilmember and will be made part of the public record, but will not be read aloud.

Handwritten: CMC

E. Committee Chair Reports

This is a three-minute opportunity for Chairs of standing committees of the Council to update the Council on Board and committee activities, work plans, and other items of interest.

F. City Manager Report/Presentations/Briefings

The City Manager's report is an opportunity for the City Manager to brief the Council on the progress or plans with regard to items, projects, issues, relationships, or events of significant interest.

G. Consent Agenda

The City Manager, in consultation with the Presiding Officer, shall place matters on the Consent Agenda which are considered to be of a routine and non-controversial nature. The individual items on the consent agenda shall be approved, adopted, or enacted by one motion of the Council.

No discussion shall take place regarding any item on the consent agenda beyond asking questions for simple clarification.

H. Ceremonial Matters, Proclamations, Recognitions

1. Proclamations:

The Mayor and the Council have authority to introduce proclamations for a variety of purposes, as approved by the Council. No proclamation shall constitute official City actions unless approved or authorized by a majority of the City Council

I. Public Hearings – The procedures of a public hearing are as follows:

1. Prior to the start of the "Comments from the Public" portion of the public hearing, the Presiding Officer may require that all persons wishing to be heard shall sign in with the Clerk, giving their names and addresses, the agenda item, and whether they wish to speak as proponent, opponent, or otherwise. Any person who fails to sign in shall not be permitted to speak until all those who signed in have done so. At any public hearing all persons who have signed in and wish to be heard shall be heard. However, the Presiding Officer shall be authorized to establish speaker time limits and otherwise control presentations to avoid repetition. In public hearings that are not of a quasi-judicial nature, the Presiding Officer, subject to concurrence of the majority of the Council, may establish time limits and otherwise control presentations. The Presiding Officer may change the order of speakers so that testimony is heard in the most logical groupings (i.e. proponents, opponents, adjacent owners, vested interests, etc.).

2. The Presiding Officer introduces the agenda item, opens the public hearing, and provides a summary of the following Rules of Order and/or advises the public that they may have a copy of such rules, which shall be available with other agenda materials regularly made available to the public at each Council meeting:

- a. All comments by proponents, opponents, or the public shall be made from the speaker's rostrum and any individual making comments shall first give their name and city of residence. This is required because an official recorded transcript of the public hearing is being made. If there is any appeal to King County Superior Court, the court must make its decision on the basis of what was said here.
- b. It is not necessary to be a proponent or opponent in order to speak. If you consider yourself neither a proponent nor opponent, please speak during the proponent portion and identify yourself as neither a proponent nor an opponent
- c. No comments shall be made from any other location, and anyone making "out of order" comments shall be subject to removal from the meeting.
- d. There will be no demonstrations during or at the conclusion of anyone's presentation
- e. These rules are intended to promote an orderly system of holding a public hearing, to give every person an opportunity to be heard, and to ensure that no individual is embarrassed by exercising their right of free speech.

3.

a. When Council conducts a hearing to which the Appearance of Fairness Doctrine applies (Rule 6.2, and Parliamentary Procedure 11.06B) the Presiding Officer will ask if any Councilmember knows of any reason which would require such member to excuse themselves pursuant to Rule 6.2. The suggested form of the announcement is as follows:

"All Councilmembers should now give consideration as to whether they have: (1) a demonstrated bias or prejudice for or against any party to the proceedings; (2) a direct or indirect monetary interest in the outcome of the proceedings; (3) a prejudgment of the issue prior to hearing the facts on the record; or (4) ex parte contact with any individual, excluding Administrative staff, with regard to an issue prior to the hearing. If any Councilmember should answer in the affirmative, then the Councilmember should state the reason for their answer at this time so that the Chair may inquire of Administration as to whether a violation of the Appearance of Fairness Doctrine exists."

b. When Council conducts a "quasi-judicial" hearing, the Presiding Officer may

require that all persons wishing to provide testimony during the course of such hearing provide an oath, on the record, affirming the truth of their testimony. The suggested form and process for such oath is as follows:

"The Presiding Officer asks all possible speakers to raise their right hand, asks such individuals to consider the following question and respond "I do", and inquires:

"Do you affirm under penalty of perjury under the laws of the State of Washington that the testimony you are about to provide is true and accurate to the best of your knowledge?"

4. At the outset of each public hearing or meeting to consider a zoning amendment or zoning reclassification the Presiding Officer will call upon City Administration to describe the matter under consideration, including legal standards for approval of the item before the Council, and ask the parties to limit their presentations to information within the scope of the Council standards.
5. The Presiding Officer calls for proponents in quasi-judicial proceedings (and for speakers in non-quasi-judicial proceedings).
6. The proponents now speak. (Note: If the City of Des Moines is the proponent, a member or members of the administration shall be designated to give proponent and rebuttal testimony).
7. The Presiding Officer calls for additional proponents or speakers three times.
8. In non-quasi-judicial proceedings refer to Public Hearing Rule 10a , otherwise the Presiding Officer calls for opponents by announcing the following:
"At this time the opponents will have an opportunity to speak. Should any opponent have questions to ask of the proponents, ask the questions during your presentation. The proponents shall note the question asked, and answer such questions when the proponent speaks in rebuttal. The proponent shall be required to answer any reasonable question, provided that the Presiding Officer reserves the right to rule any question out of order."
9. Opponents speak.
10. The Presiding Officer calls for additional opponents three times.
11. The Presiding Officer calls for proponents to speak in rebuttal. A proponent speaking in rebuttal shall not introduce new material. If the proponent does, or is allowed to do so, the opponents shall also be allowed to rebut the new elements.
12. The Presiding Officer announces:
"At this time I will inquire of the administration as to whether there have been any mis-statements of fact or whether the administration wishes to introduce any material as to subjects raised by the proponents or opponents or alter in any regard its initial recommendations."
13. The Presiding Officer inquires as to whether any Councilmembers have any questions to ask the proponents, opponents, speakers, or administration. If any Councilmember has questions, the appropriate individual will be recalled to the podium.
14. The Presiding Officer closes the public hearing.
15. After a public hearing is closed, no member of the public shall be permitted to address the Council or the staff. In fairness to members of the public, the City Council shall be considered to be in deliberations from that point forward. Continuance of the item shall place it on the "unfinished business" portion of any forthcoming agenda. Additional public testimony either that evening or at a future meeting would be precluded until public hearing notification procedures required by the Des Moines Municipal Code are concluded.
16. The Presiding Officer inquires if there is a motion by any Councilmembers. If a motion is made, it shall be in the form of an affirmative motion. Following the motion and its second, discussion occurs among Councilmembers. The Presiding Officer may call on individual Councilmembers in the discussion.
17. The Presiding Officer inquires if there is any further discussion by the Councilmembers.
18. The Presiding Officer inquires if there are any final comments or recommendations from administration.

19. The Presiding Officer inquires of the Councilmembers as to whether they are ready for the question.
 20. The Clerk shall conduct a roll call vote.
 21. The Presiding Officer directs administration to prepare findings consistent with the action.
- J. Unfinished Business
- K. New Business - The following are types of business conducted by the City Council:
1. Ordinances, Resolutions, Proclamations, Contracts
All Ordinances, Resolutions, Proclamations and Contracts shall, before presentation to the Council, have been approved as to form and legality by the City Attorney, the applicable Department Head(s), and the City Manager.
 2. Draft Preparation: Ordinances and resolutions shall be prepared, introduced, and proceed in the manner described on the flow chart attached hereto as Exhibit "A", and by this reference incorporated herein. Prior to final passage of all ordinances, resolutions or motions, such documents or proposals shall be designated as DRAFTS as follows:
 - a. Proposed Drafts shall contain the name of the group, organization, committee or individual originating, initiating or sponsoring the proposal prior to the first presentation to the City Council where a vote is taken directing some official action or further consideration.
 - b. Council Drafts shall be documents or proposals which have been presented in open session and voted on by the City Council when the resultant Council action was other than passage or a vote to cease further consideration.
 2. Ordinances:
An enacted ordinance is a legislative act prescribing general, uniform, and permanent rules of conduct relating to the corporate affairs of the municipality. Council action shall be taken by ordinance as required by law, or to prescribe permanent rules of conduct which continue in force until repealed, or where such conduct is enforced by penalty. If a Councilmember requests that the entire ordinance, certain sections, or the title be read, such requests shall be granted.
 3. Resolutions:
An enacted resolution is an administrative act which is a formal statement of policy concerning matters of special or temporary character. Council action shall be taken by resolution as required by law and in those instances where an expression of policy more formal than a motion is desired.
 4. The title of each resolution shall in all cases be read prior to its passage; provided, should a Councilmember request that the entire resolution or certain of its sections be read, such requests shall be granted. Printed copies shall be made available upon request to any person attending a Council meeting.
 5. Contracts:
Refer to Addendum B, Resolution No. 1118, policies governing City Council participation in public contracts.
- L. New Agenda Items for Consideration
This portion of the meeting allows a Councilmember to present an idea to their colleagues for consideration in placing the item on a future agenda.
1. A presenter should come to the dais prepared with research and answers to questions, and offer a specific, concise request.
 2. It is not a time for discussion, deliberation, presentation, or research – other than the minimum amount of information necessary to gain needed support.
 3. A minimum of three Councilmembers must agree in order for the item introduced to be placed on a future agenda.
- M. Councilmember Reports
This is an opportunity for Councilmembers to comment on agenda items, respond to public comment, and update each other regarding community events, activities, or notable regional

issues.

1. Reports shall be limited to four minutes, unless extended time is granted by the Presiding Officer. The Presiding Officer shall notify the Councilmember when the allotted time has expired.
2. Discussion or voting during this time will not be considered a part of their time limit.

N. Presiding Officer's Report

In addition to any special board or committee reports, the Presiding Officer may give a report on any activity participated in as part of the official duties of the Mayor.

O. Executive Session (as needed).

At the call of the presiding officer, or with a majority vote, the City Council may recess to Executive Session to privately discuss and consider matters of confidential concern to the well-being of the City. The purposes for which an Executive Session or Closed Session may be held are identified in [RCW 42.30.110](#) and [RCW 42.30.140](#).

The City Council may also hold an Executive Session to receive confidential advice from the City Attorney under the attorney-client privilege.

Before convening in Executive Session or Closed Session, the presiding officer shall publicly announce the purpose for excluding the public from the meeting place, and the time when the Executive Session/Closed Session will be concluded. An Executive Session/Closed Session may be extended to a stated later time by announcement of the Presiding Officer.

Participants in an executive session have a duty under the Open Public Meetings Act to keep information from the session confidential, Pursuant to Attorney General Opinion (AGO 2017 No. 5), disclosure of confidential information from an executive session by a municipal officer violates RCW 42.23.070(4) and accordingly may result in the sanction or censure of the violating party.

P. Next meeting date announced by Presiding Officer

- Q. Adjournment. No meeting shall be permitted to continue beyond 9:00 p.m. without approval of three-fourths of the Councilmembers who are present and eligible to vote. A new time limit must be established before taking a Council vote to extend the meeting. In the event that a meeting has not been closed or continued by Council vote prior to 9:00 PM, the items not acted on shall be deferred to the next regular Council meeting as unfinished business, unless the Council, by a majority vote of members present, determines otherwise

8.08 Order of Business - Study Sessions

The study session is the forum used by Council to review forthcoming programs of the City, to receive progress reports on current issues, or to receive similar information from the City Manager and others. The purpose of Study Sessions is to allow Councilmembers to do concentrated preliminary work with administration on single subjects of time consuming, complex matters (i.e., budget, complex legislation or reports, research, etc.)

Study Sessions need have no formal agenda and may be conducted informally so long as such informality is not in conflict with these rules. These conditions will allow the Councilmembers to communicate informally about these impending issues. The Presiding Officer retains the option of assuming the function of the Discussion Item Moderator in order to keep the discussion properly focused.

No final Council action on ordinances or resolutions may be taken during a Study Session.

- A. In Preparation for a Study Session, the City Clerk, under the direction of the City Manager, shall arrange a Council Study Session worksheet for the Study Session. The Council Study Session worksheet shall contain the Discussion Item.
- B. After the proposed Council Study Session worksheet has been approved by the Presiding

Officer, a copy of it along with any available supporting materials shall be prepared for Councilmembers, and the meeting will be noticed by close of business Friday prior to the Council Study Session, except in an emergency.

- C. During a Study Session, the Moderator may:
 - 1. Introduce and give background information
 - 2. Identify the discussion goal
 - 3. Act as facilitator to keep the discussion focused
 - 4. Alert the Presiding Officer when/if it is appropriate to call for a motion or other official direction of the Council

8.09 Order of Business – General Procedures

- A. Forms of Address
The Mayor shall be addressed as "Mayor (surname)." The Deputy Mayor shall be address as "Deputy Mayor (surname)." Members of the Council shall be addressed as "Councilmember (surname)."
- B. Seating Arrangement of the Council
Councilmembers shall occupy the respective seats in the Council Chamber assigned to them by the Mayor.
- C. Signing of City Documents
The Mayor, unless unavailable, shall sign all ordinances, resolutions and other documents which have been adopted by the City Council and require an official signature; except when the City Manager has been authorized by Council action to sign documents. In the event the Mayor is unavailable, the Deputy Mayor may sign such documents.
- D. Quorum
At all meetings of the Council, four Councilmembers who are present and eligible to vote shall constitute a quorum for the transaction of business. A lesser number may adjourn from time to time, provided that written notice of said adjournment is posted in accordance with RCW 42.30.090. Council meetings adjourned under the previous provision shall be considered a regular meeting for all purposes.
- E. Attendance
RCW 35A.12.060 provides that a Councilmember shall forfeit his/her office by failing to attend three consecutive regular meetings of the Council without being excused by the Council. Members of the Council may be so excused by complying with this section. The member shall contact the Presiding Officer prior to the meeting and state the reason for his/her inability to attend the meeting. If the member is unable to contact the Presiding Officer, the member shall contact the City Manager or City Clerk, who shall convey the message to the Presiding Officer. Following roll call, the Presiding Officer shall inform the Council of the member's absence, state the reason for such absence, and inquire if there is a motion to excuse the member. This motion shall be non-debatable. Upon passage of such motion by a majority of members present, the absent member shall be considered excused and the Clerk will make an appropriate notation in the minutes.
- F. Remote Attendance
A Councilmember may participate remotely in all or part of a Council meeting because of an unanticipated event that prevents a Councilmember from attending in person through no fault of their own. In order to receive compensation for a meeting, a formal recognition of remote attendance must be granted by the Mayor or Presiding Officer.

If the basis for the remote participation is due to the Councilmember attending to City business in another capacity, the Councilmember shall be considered physically present for the purposes of DMMC 4.08.020.

In the event that the Mayor seeks to attend a meeting remotely, the Mayor shall seek prior approval from the Deputy Mayor. If approval is granted, the Deputy Mayor shall act as the

Presiding Officer for the meeting.

When participating remotely:

1. A Councilmember must be able to be heard
2. The Councilmember shall have reviewed all of the applicable material and participated in the relevant portion of the Council Meeting related to the topic of the vote. Any technical prohibitions or difficulties that prevent all parties present at the Council Meeting from adequately communicating, will negate any authorization previously given by the Mayor.
3. The remote participant shall notify the Presiding Officer if they are about to disconnect participation.
4. A remote appearance shall count toward a quorum of the Council for all purposes and shall entitle the Councilmember to vote.

G. Minutes

The City Clerk or designee shall take minutes at all meetings of the City Council. The minutes shall be made available for public inspection.

H. Voting

Unless otherwise provided for by statute, ordinance, or resolution, all votes shall be taken by voice or by raise of hand as requested by the Presiding Officer. A roll call vote shall be taken by the Clerk at the request of a Councilmember. The order of the roll call vote shall be determined by the Presiding Officer.

1. In case of a tie in votes on any proposal, the proposal shall be considered lost.
2. Every member who was in the Council chambers when the question was put, shall give their vote unless the Councilmember excuses themselves in accordance with Rule 15. If any unexcused Councilmember abstains "aye" or "nay", their vote shall be counted as a "nay" vote.
3. Reconsideration of an item will be considered by a majority vote of the Council. A member of the prevailing majority must make a motion for reconsideration when the previous vote was taken, and can be made no later than the next regular meeting after which the previous vote was taken.
4. The passage of any ordinance, grant or revocation of franchise or license, any resolution for the payment of money, any approval of warrants, and any resolution for the removal of the City Manager shall require the affirmative vote of at least a majority of the whole membership of the Council.
5. The passage of any public emergency ordinance (an ordinance that takes effect immediately), expenditures for any calamity or violence of nature or riot or insurrection or war, and provisions for a lesser emergency such as a budget amendment shall require the affirmative vote of at least a majority plus one of the whole membership of the Council.
6. Only those ordinances, resolutions, or motions that receive an affirmative vote by the majority of the present and voting members of the City Council who also constitute a quorum shall be passed or become effective unless other voting requirements are provided by Washington State law, DMMC, or this Resolution as amended.
7. In order for an ordinance or resolution to become effective immediately, the City Council must declare that an emergency exists and approve the ordinance or resolution by the affirmative vote of three-fourths of the members of the City Council. (See Chapter 8.G.10E)
8. The passage of any motion or resolution not subject to the provisions of RCW, DMMC, or this Resolution as amended, shall require the affirmative vote of at least a majority of the membership of the Council who are present and eligible to vote. (Amended by Res. 1140, 2011).

8.10 Open Public Meetings Act

- A. The Des Moines City Council will comply with all state and federal law in the notice, conduct, recording, storage and dissemination of meetings and associated information.
- B. Actions

No legal action can be taken by the Council except in a public meeting. At a *Special Meeting*, action can be taken only on those items appearing on the posted agenda, except for emergency items. At a Regular Meeting of the City Council, the Council is free to take action on non-agenda items, subject to applicable notice requirements in state statutes or local ordinances for the subject matter being considered.

Chapter 9 Protocol Administration

9.01 Biennial Review

The City Council will review and revise the City Council Protocol Manual every two years, or as needed.

If needed, an Ad Hoc committee may be appointed by the Mayor for the purpose of review and advice to the Council.

9.02 Adherence to Protocol

- A. Each Councilmember shall have the duty and obligation to review this Protocol Manual and understand to be bound by its provisions.
- B. The Mayor will be primarily responsible to ensure that the City Council, staff, and members of the public adhere to the Council's adopted Protocol Manual.
- C. Knowing and/or willful failure to adhere to the provisions of this Protocol Manual may subject a Councilmember to enforcement and sanctions as follows:
 1. Upon determining that there is credible evidence that a Councilmember has, or may have, engaged in knowing and/or willful action or omission that constitutes failure to adhere to the provisions of this Protocol Manual, the Mayor or the Deputy Mayor, in the event that the Mayor is the Councilmember alleged to have engaged in such action or omission, may call upon the Council to determine whether such knowing and/or willful action or omission has occurred, and the sanctions, if any, to be imposed.
 2. Prior to conducting any hearing on an alleged failure to adhere to the provisions of this Protocol Manual, the Mayor or Deputy Mayor shall provide written notice to the Councilmember alleged to have engaged in such failure to adhere at least ten (10) calendar days prior to calling for such hearing. The written notice shall identify the specific provisions of this Protocol Manual with which the Councilmember is alleged to have failed to adhere and the facts supporting such allegation.
 3. Upon call by the Mayor or Deputy Mayor, a majority of a quorum of the Council shall vote on whether to hold a hearing to determine the existence of an act or omission constituting a failure to adhere and the sanctions, if any, to be imposed. If such hearing is approved by the Council, the hearing shall be held at a time and place specified in the motion approving such hearing.
 4. At such hearing, the Council shall determine whether there is a preponderance of credible and substantial evidence indicating that a Councilmember has knowingly and/or willfully acted or failed to act in a manner constituting a failure to adhere to the provisions of this Protocol Manual. The Councilmember alleged to have failed to adhere to the provisions of this Protocol Manual shall have the right to present evidence and testimony. The finding of the existence of such knowing and/or willful failure to adhere shall be determined by motion approved by a majority of the Council.
 5. Upon finding that a knowing and/or willful failure to adhere to the provisions of this

Protocol Manual has occurred, the Council shall proceed to determine whether the sanctions, if any, should be imposed. Such breaches include, but are not limited to:

- a. Failure to observe respectful rules of discussion
- b. Creating disruption at the dais
- c. Breaching confidentiality of executive session
- d. Failing to observe ethics guidelines
- e. Taking action outside the board meeting which undermines the body.
- f. Appropriate sanctions include, but are not limited to the following:
 1. Verbal warning
 2. Written warning
 3. Public censure
 4. Removal of appointment to extra-territorial boards, committees, or commissions; and
 5. Removal of appointment to Council boards or committees

9.03 City Attorney as Protocol Advisor

The City Attorney shall assist the Mayor and serve as an advisor for interpreting the City Council's adopted Protocol Manual.

Chapter 10

Leaving Office/Filling Vacancies

10.01 Return of Materials and Equipment

During their service on the City Council, members may have acquired or been provided equipment such as computers, cell phone or other items of significant value. These items are to be returned to the City at the conclusion of a member's term. If an item is lost or unable to be returned, the Councilmember will reimburse the City for the current value of the item.

10.02 Filling Council Vacancies

The purpose of this section is to provide guidance to the City Council when a Des Moines Councilmember position becomes vacant before the expiration of the official's elected term of office. Pursuant to state law, a vacancy shall be filled only until the next regular municipal election, to serve the remainder of the unexpired term.

A. References

[RCW 42.30.110 \(H\)](#) – Executive Session Allowed to Consider Qualifications of a Candidate for Appointment to Elective office.

[RCW 42.30.060](#) – Prohibition on Secret Ballots.

[RCW 42.12](#) – Vacant Position.

[RCW 35A.13.020](#) – Vacancies – Filling of Vacancies in Council/Manager Form of Government.

- A. A Council position shall be officially declared vacant upon the occurrence of any of the causes of vacancy set forth in [RCW 42.12.010](#), and RCW 35A.13.020, including resignation, recall, forfeiture, written or public statement of intent to resign, or death of a Councilmember. The Councilmember who is vacating their position is not allowed to participate in the appointment process.
- B. In order to fill the vacancy with the most qualified person available until an election is held, the City Council shall direct staff to begin the Councilmember appointment process and establish an interview and appointment schedule, so that the position is filled at the earliest opportunity.

- a. The City Clerk's Office shall prepare and distribute a public notice as required. This notice shall contain information, including but not limited to, time to be served in the vacant position, election information, salary information, Councilmember powers and duties, the deadline date and time for submitting applications, interview and appointment schedules, and such other information that the City Council deems appropriate.
- b. The City Clerk's Office shall prepare an application form which requests appropriate information for City Council consideration of the applicants. Applications will be available at City of Des Moines offices and on the City's official website.
- c. Applications and any attachments received by the deadline date and time will be distributed by the City Clerk's Office, to the Mayor and City Council.
- d. The City Clerk's Office shall publish the required public notice(s) for the meeting scheduled for interviewing applicants for consideration to the vacant position. This meeting may be a regularly scheduled City Council meeting, or a special City Council meeting.
- e. The City Clerk's Office shall notify applicants of the location, date and time of City Council interviews, and include instructions about how the interview process will be conducted.

C. Interview Process

The Interview process will be determined by a vote of the majority of the Council.

D. Voting

Upon completion of the interviews, Councilmembers may convene into Executive Session to discuss the qualifications of the applicants. However, all interviews, deliberations, nominations and votes taken by the Council shall be in open public session.

- a. The Mayor shall ask for nominations from the Councilmembers for the purpose of creating a group of candidates to consider. No second is needed.
- b. Nominations are closed by a motion, second and majority vote of the Council.
- c. Councilmembers may deliberate on such matters as criteria for selection and the nominated group of candidates.
- d. The Mayor shall poll Councilmembers to ascertain that Councilmembers are prepared to vote.
- e. The City Clerk shall proceed with a roll-call vote.
- f. Elections will continue until a nominee receives a majority vote of the remaining Councilmembers.
- g. At any time during the election process, the City Council may postpone elections until a date certain or regular meeting if a majority vote has not been received.
- h. Nothing in this policy shall prevent the City Council from reconvening into Executive Session to further discuss the applicant/candidate qualifications.
- i. The Mayor shall declare the nominee receiving the majority vote as the new Councilmember and shall be sworn into office by the City Clerk at the earliest opportunity or no later than the next regularly scheduled City Council meeting.
- j. If the City Council does not appoint a qualified person to fill the vacancy within 90 days of the declared vacancy, the Revised Code of Washington delegates appointment powers to King County.

CHAPTER 11.

Parliamentary Procedures

11.01 Meeting Decorum and Order

- A. The presiding officer shall preserve decorum and decide all questions of order, subject to appeal by the Council. During Council meetings, Councilmembers shall preserve order and decorum and shall not delay or interrupt the proceedings or refuse to obey the orders of the chair

or the rules of protocol.

- B. Courtesy: Members of the Council, in the discussion, comments or debate of any matter or issue, shall be courteous in the language and demeanor, and shall not engage in derogatory remarks or insinuations in respect to any other member of the Council, or any member of the staff or the public, but shall, at all times, confine their remarks to those facts which are germane and relevant as determined by the Presiding Officer, to the question or matter under discussion.
- C. Interruption: No member of the Council shall interrupt or argue with any other member while such a member has the floor.
- D. The City of Des Moines is committed to maintaining a drug and alcohol free workplace. Accordingly, members of the Council shall abide by Sections 6(1) and (6)(J)(I) of the City of Des Moines Personnel Manual while serving at the dais.
- E. Any Councilmember may request the presiding officer to enforce the rules of protocol by using, "Point of Order." The Presiding Officer may respond affirmatively or upon motion and majority vote, the presiding officer shall be required to do so.
- F. Dress Code: For Council Business meetings, Councilmembers shall adhere to a business casual attire and no hats allowed.

11.02 Obtaining the Floor

A Councilmember shall address or signal the presiding officer and gain recognition prior to making a motion or engaging in debate. Cross-exchange between Councilmembers and the public should be avoided. This is to prevent general conversation and to keep the order necessary to maintain decorum and accomplish the business of the Council.

After a member has concluded comments and yielded the floor, if two or more members are trying to obtain the floor at the same time, the general rule is that the person who addresses or signals the chair first is entitled to be recognized. When a motion is open to debate, however, there are two instances in which the presiding officer should assign the floor to a person who may not have been the first to address the chair. These are:

- A. The Councilmember who made the motion currently under debate is entitled to be recognized in preference to other members if that individual is claiming the floor and has not already spoken on the question.
- B. No member is entitled to the floor a second time in the meeting on the same motion as long as another member who has not spoken on the motion desires the floor.

11.03 Interruptions

Once recognized, a Councilmember should not be interrupted while speaking, except to make a point of order or personal privilege. If a Councilmember is called to order while speaking, the individual shall cease speaking until the question order is determined.

Upon being recognized by the presiding officer, members of the staff shall hold the floor until completion of their remarks or until recognition is withdrawn by the presiding officer.

11.04 Discussion Limit

- A. Councilmembers should not speak more than once on a particular subject until every other Councilmember has had the opportunity to speak. No member of the Council shall speak more than twice on the same motion except by consent of the majority of the Council present.
- B. Questions and answers by the members of the Council are not considered as speaking to the motion.
- C. Each member of the Council shall speak for not more than five minutes per turn unless granted exception by a majority of the Council present.
- D. No member of the Council may give their allotted time to another member unless there is approval of the majority of the Council present.

11.05 Right of Protest

A Councilmember is never required to state reasons for a dissenting vote; provided, however, that any member of the City Council shall have the right to state the reasons for their dissent from, or protest against, any action of the Council. Such statement shall be noted in the minutes along with the record of the vote in the following format: "Councilmember XX verbally stated their reasons for voting in the minority on this matter." No other statement is proper or will be allowed to be recorded in the minutes of the meeting.

CHAPTER 12

Additional Training and Resource Materials

12.01 Association of Washington Cities [(800) 562-8981]

<https://wacities.org/> The Association is a voluntary, nonpartisan, nonprofit association comprised of all incorporated cities and towns in Washington.

12.02 National League of Cities [(202) 626-3000]

www.nlc.org A non-partisan organization serving municipal governments, the NLC works to establish unified policy positions, advocates those policies forcefully, and shares information that strengthens municipal government throughout the nation.

12.03 International City/County Management Association [(202) 289-4262]

<https://icma.org/> ICMA is a professional and educational association of local government administrators that serves to enhance the quality of local government through professional management and to support and assist professional local government administration. The Association's *Elected Officials Handbook* series can be of great value to Councilmembers. Publications are also available through ICMA concerning every basic city service.

12.04 Government Finance Officers Association [(312) 977-9700]

www.gfoa.org GFOA is a professional association of state and local finance officers. The Association administers a broad range of services and programs related to government financial management:

12.05 Municipal Research & Services Center of Washington [(206) 625-1300]

www.mrsc.org MRSC is a nonprofit, independent organization created in 1969 to continue programs established in 1934 under the Bureau of Governmental Research at the University of Washington. One of the principal services of MRSC is to respond to inquiries on virtually every facet of local government.

