



City Council Rules Committee

April 10, 2023 — 10:00 a.m. to 11:00 a.m.

550 Liberty Street SE, Room 220

Mayor and City Manager's Office Conference Room

Si necesita ayuda para comprender esta información, por favor llame 503-588-6178

PARTICIPANTS

Board Members

Chair - Virginia Stapleton,

Members - Chris Hoy, Deanna Gwyn, Trevor Phillips.

Alternate – Vanessa Nordyke.

Staff

Keith Stahley, City Manager, Dan Atchison, City Attorney, Dan Balm, Assistant to the Mayor.

AGENDA

1. Welcome and call to order
2. Approval of Minutes
3. Public Comment - Appearance of persons wishing to address the Committee
4. Rules Discussion
 - a. Remaining City Attorney recommended changes
 - Rule 4(b) – Work session schedule - draft amendment.
 - Rule 4(c) – Executive Sessions – No remote attendance.
 - Rule 21 – Guest Councilor – draft amendment limiting guest councilors from participating in deliberations on quasi-judicial land use hearings.
 - Rule 22. Council communications.
 - Rule 23. Remote attendance by members.
 -
 - b. Policy Matters.
 - Social Media Policy
 - Council member standards of conduct
 - Council Call-Up (review) – Review of Rule 15(d) limiting public comment on information reports relating to land use.
5. Other business
6. Adjourn

Next Meeting: TBD

This meeting is being conducted **in person only** at Salem Civic Center, 550 Liberty St., SE, Room 220, April 10, 2023 at 10:00 A.M. Interested persons and those wishing to give in person public comment are invited to attend in person. The meeting will not be available online. Written comments may be submitted at the meeting, or prior to the meeting at Legal@cityofsalem.net

Special accommodations are available, upon request, for persons with disabilities or those needing sign language interpretation, or languages other than English. To request accommodations or services, please call 503-540-2371 (TTD/TTY 503-588-6439) at least two business days in advance.

It is the City of Salem's policy to assure that no person shall be discriminated against on the grounds of race, religion, color, sex, marital status, familial status, national origin, age, mental or physical disability, sexual orientation, gender identity, and source of income, as provided by Salem Revised Code 97. The City of Salem also fully complies with Title VI of the Civil Rights Act of 1964, Americans with Disabilities Act of 1990, and related statutes and regulations, in all programs and activities.

TO: Council Rules Subcommittee |
THROUGH: Keith Stahley, City Manager |
FROM: Dan Atchison, City Attorney |

SUBJECT:

| City Council Rules. |

SUMMARY:

| The City Council Rules govern council procedures for meetings as well as for general council business. The Rules were last amended in 2021 to address meeting procedures in light of the pandemic requirement for remote meetings and to make other minor changes. Aside from other minor changes, the Rules have not been substantively updated since 2015.

The Council Rules Subcommittee (Committee) met on March 6, 2023 (Attachment 1 – Draft Minutes) and reviewed and approved a series of “housekeeping” amendments proposed by the City Attorney. The Committee also reviewed several more substantive amendments proposed by the City Attorney; the Committee approved a number of those proposals, rejected some, and tabled discussion on others. See, Attachment 2 – draft rules changes which identify changes approved, rejected, or tabled.

Today’s agenda includes a review of Rule 4 – Council Meetings, Rule 21 – Guest Councilor, proposed new Rule 22 – Council Communications, and Rule 23 – Remote attendance by members. In addition, the Committee will also discuss a social media Policy, Council member standards of conduct, and whether to limit in person public comment of quasi-judicial land use decisions that are eligible for Council call-ups. |

DISCUSSION:

1. **Rule 4 – Council Meetings.**

- a. Rule 4(b) – Work session schedule. Per the Committee’s discussion on March 6, 2023, the draft includes a proposed amendment to prefer, but not require, work sessions to occur on the third Monday of the month (Attachment 2).

- b. Rule 4(c) – Executive Sessions. Per the Committee’s discussion, the proposed amendment would prohibit virtual attendance and participation at executive sessions, except in case of an emergency (Attachment 2).
2. **Rule 21 – Guest Councilor.** Per Committee discussion, the proposed amendment would limit guest councilor participation in Council deliberations in quasi-judicial land use decisions. The City Attorney expressed a concern about a guest councilor (who is not a member of council or elected by voters) exerting too much influence on decision-making for quasi-judicial land use matters. State law and the City Code provide for substantive procedural rights to all participants in quasi-judicial land use decisions and providing a single member of the public an outsized role in Council decisions on such matters could be viewed as a substantive violation, leading to remand of the decision by LUBA or the courts.
3. **Rule 22 – Council Communications.** Rule 22 is a new rule proposed by the City Attorney in consultations with Chair Stapleton. The rule provides guidance to comply with public meetings and public records requirements by avoiding serial public meetings through email or other communications between councilors.
4. **Rule 23 – Remote Attendance and Participation.** The proposed changes eliminate the requirement that the circumstances for a member’s electronic attendance at a meeting be read into the record, and the requirement that the Council President preside over a meeting where on the Mayor is attending remotely. The draft (Attachment 2) also queries whether the Rule should only attend meetings virtually if necessary.
5. **Social Media Policy.**
 - a. Should use of social media, texting, internet by members of council during meetings be restricted.
 - b. Should livestreaming meetings by members of council be restricted.
 - c. Personal social media pages. Personal council member social media pages may be deemed to be official City pages in terms of public records. There are no Oregon or 9th Circuit cases on this point so there are no binding court decisions. Courts in other jurisdictions are split on the issue. To the extent that a City public official’s personal social media page publicly promotes official City business, events, and activities, or holds itself out to be an official page of the City, a court may find that the page is subject to Oregon public records law, requiring the City and the public official to retain the materials pursuant to the Oregon records retention schedule.
 - d. Public Meetings. “Liking” and posting comments on other councilors’ social media concerning City business could be deemed “deliberations” and a public meeting violation. If a quorum of councilors post comments or likes concerning City business on any social media page, a public meeting

violation could occur.

- e. Guidance: Promoting your own actions and plans concerning City business, as opposed to promoting the City's/City Council's events, agenda, etc., will lessen the chance your personal page is deemed public.
 - f. Guidance: The intent of public meetings law is to ensure that a governing body's deliberations take place in properly noticed public meetings. Avoid discussing issues that will be before council with a quorum of council in a social media environment. Simply posting about City events or summaries of what happened at a council meeting, may lead someone to think of your social media site as an official site, so avoid using City logos or other references that could cause confusion.
6. **Council Member Standards of Conduct.** Council members are subject to the State and City ethics and campaign laws (including improper use of office, conflict of interest, gift rules, and reporting requirements). In addition, Council Rules restrict council members involvement in City contracts or influencing personnel decisions. Council members' actions and behaviors, even those while acting in a personal or professional capacity, can negatively affect the City Council and the City.

Members of Council are elected officials and Council has limited authority to impose sanctions on members who violate Council Rules. Mutually agreed upon standards of conduct for members of Council may help avoid council member actions or behaviors that negatively impact the Council or the City.

7. **Limiting Public Comment on quasi-judicial land use decisions.** City Council has authority under SRC chapter 300 to call-up for review most quasi-judicial land use decisions. Recently, members of the public have utilized public comment during council meetings to advocate for Council to call-up certain decisions. The comments concern the substance of the application and the individual's argument for why a particular application did or didn't meet the applicable criteria. Individuals involved in the matter, such as the applicant and other members of the public have complained that allowing public comment concerning a call-up is unfair; in that no notice is provided that testimony will be received about the issue, or that individuals are not aware that council would consider a call-up of a given application.

The communications about call-ups received during public comment would be impermissible *ex parte* contacts, but only if Council elects to call-up the decision and become the City's final decision maker on the matter. In that case, the City could cure the *ex parte* violations by including the public comment in the record of the matter. However, due to the concerns raised above, it may be beneficial

for all parties and Council to restrict comment on quasi-judicial land use decisions appearing on the council agenda as information reports to written communications only. Implementing this restriction would still allow the public to communicate with Council concerning the issue but would avoid the mini-public hearings that have occurred during the public comment period. The written communications would be included in the record of the application if Council elects to call-up the lower decision for a new public hearing.

Dan Atchison,
City Attorney

Attachments:

1. City Council Rules Proposed Changes

Rule 1: Roberts Rules Adopted

Unless otherwise provided by law or modified by these rules, the procedure for Council meetings shall be governed by Robert's Rules of Order, 11th Ed. The Council has an obligation to the citizens to be clear and simple in its procedures and in the consideration of the questions coming before it. Therefore, Councilors should avoid invoking the finer points of parliamentary procedure when such points serve only to obscure the issues before the Council as a whole and confuse the audience at public meetings and the citizens in general. (Resolutions 87-29; 96-83; 2002-151; 2004-77; 2011-46)

Rule 2: The Presiding Officer

(a) The Mayor. The Mayor shall preside at all meetings of the Council and shall be the recognized head of the City for all ceremonial purposes. The Mayor shall have all duties and privileges of any Councilor and shall not be denied any right or privilege by reason of the Mayor's position as Presiding Officer.

(b) Council President. At the first meeting of each calendar year, the Council shall elect a president from its membership. In the event of the Mayor's absence from any Council meeting, the Council President shall act as the Presiding Officer. Whenever the Mayor is unable, on account of absence, illness or other cause, to perform the functions of the office, the Council President shall act as Mayor Pro Tem.

(c) Temporary Chairman. In event of the absence of the Mayor and Council President, the City Attorney shall call the Council to order and call the roll of the members. If a quorum is present, those Councilors present shall elect, by majority vote, a Temporary Chairman for that meeting. Should the Mayor or Council President arrive, the Temporary Chairman shall relinquish the chair immediately upon the conclusion of the item of business then in consideration before the Council.

(d) Privileges Not Affected by Status. The Presiding Officer may move, second and debate from the chair, subject only to such limitations of debate as are by these rules imposed on all members, and shall not be deprived of any of the rights and privileges of a Council member by reason of acting as the Presiding Officer. (Resolutions 87-29; 2004-77)

Rule 3: City Attorney to be the Parliamentarian

The City Attorney shall be the Parliamentarian and shall advise the Presiding Officer on any questions of order. (Resolution 2004-77)

Rule 4: Council Meetings

(a) Regular Council Meetings. The Council shall hold two regular meetings per month. All meetings shall be evening meetings, beginning at 6:00 p.m., or immediately after a meeting of the Urban Renewal Agency of the City of Salem or Housing Authority of the City of Salem, to be held on the second and fourth Monday of each month; provided, however, during the months of August and December, the regular meetings shall be held on the first and second Monday; and provided, further, that any regular meeting may be moved to another Monday in the month by majority vote of the Council. Meetings may be called to order before or after meetings of the Urban Renewal Agency for the City of Salem and the Salem Housing Authority, but shall adjourn no later than 10:00 p.m. In the event a regularly scheduled meeting falls on an official holiday, the meeting shall be held at the same hour on the next following day which is not a holiday. In the event there are a lack of agenda items for the second required monthly meeting, Council may, upon majority vote, schedule the second meeting of a month to the same date as the first meeting

Commented [DA1]: Committee approved these changes on March 6, 2023.

Commented [DA2]: Committee Discussion:
Committee tabled discussion of this item.

of that month. Notice of each meeting shall be required as set forth in subsection (e) of this section. (Resolution 2016-44)

(b) Special Meetings and Work Sessions. Special meetings and work sessions may be called by the Presiding Officer, by request of any five Councilors, or by the City Manager. Notice shall be given to each Councilor, the City Manager, and the business office of each ~~local newspaper and radio and television station~~ recognized news media which has on file a written request for notice of special meetings, and may be delivered by mail, by electronic facsimile (FAX), email, or by personal delivery. To the greatest extent practicable, special meetings should be held on the third Monday in the month. ~~Work sessions should be scheduled on the second and fourth third Mondays in the month to the extent practical.~~ Work sessions are a form of special meeting, and Council has the authority, under the Charter and Oregon public meetings law to act on motions and make final decisions at work sessions. Council may, by motion, direct staff to take certain actions at a work session, but shall defer final action or decision on substantive policy issues to a Council meeting other than a work session.

(c) Executive Sessions. Executive sessions may be called by the Presiding Officer, by the request of five Councilors, the City Manager or the City Attorney. Only Council members, the City Manager, and persons specifically invited by the Council or the City Manager shall be allowed to attend executive sessions. Representatives of recognized news media may attend executive sessions, other than those sessions during which the Council conducts deliberations with persons designated to carry on labor negotiations. Except for City staff as required by law, no one attending an executive session may electronically record the meeting. No matter discussed during executive session may be disclosed by any person present during such session. No virtual attendance or participation shall be provided for members of Council, staff, or representatives of the media for executive sessions, except in case of an emergency pursuant to ORS 192.640, in which case the circumstances justifying an emergency shall be read into the record at the beginning of the meeting.

(d) Location of Meetings. Council meetings shall be held within the jurisdictional boundaries of the ~~City~~ City. Work sessions may be held outside the ~~City~~ City limits, if no deliberations toward a decision are made. Inter-jurisdictional meetings may be held outside ~~City~~ City limits, but should be as close to Salem as practical. No Council meeting shall be held at any place where discrimination on the basis of an individual's race, religion, color, sex, marital status, familial status, national origin, age, mental or physical disability, sexual orientation, gender identity, housing status, and source of income ~~race, religion, color, sex, national origin, ethnicity, marital status, familial status, age, sexual orientation, source of income or disability~~, is practiced. For this purpose, meetings do not include visitations or attendance at any national, regional, or state association to which the Councilor belongs.

(e) Notice of Regular Meetings, Special Meetings, Work Sessions, and Emergency Meetings. Advance notice of at least 24 hours shall be provided for all regular and special meetings, work sessions, and executive sessions. In the case of emergency meeting or when a state of emergency has been declared, notice appropriate to the circumstances shall be provided and reasons justifying the lack of 24-hour notice shall be included in the minutes of such meeting. Notice for all meetings shall include written notice to all recognized news media which requested notice.

(f) Public Attendance. Except for properly called executive sessions, all meetings and work sessions shall be open to public attendance, including the ability to view and listen to participate at meetings and work sessions electronically to the extent reasonable. (Resolutions 87-29; 92-41; 93-137; 94-43; 98-206; 99-44; 2000-61; 2009-35; 2021-33)

Rule 5: Order of Business and Agenda

(a) Order of Business. The order of business for all regular meetings of the Council shall be as follows; provided, however, that when it appears to be in the best interest of the public, the order of business may be changed for any single meeting by two-thirds a majority vote of members present.

(1) Opening exercises (includes call to order, roll call, pledge of allegiance, announcements, approval of additions and deletions to the agenda, proclamations, ~~ceremonial~~ presentations, and Council and City Manager comment);

Commented [DA3]: Housekeeping:
Council Policy A-12 designates certain media entities to be recognized new media and eligible to attend executive sessions. This amendment conforms the rules to this policy.

Commented [DA4R3]: Committee approved these changes on March 6, 2023.

Commented [DA5]: Commission Discussion:
Past practice was to schedule work sessions earlier in the day immediately preceding the SHA/URA/Council meeting.
Current practice is to schedule work sessions on the third Monday.

Commented [DA6R5]: Committee proposed scheduling work sessions on the third Monday when practical.

Commented [DA7]: Housekeeping:
This prohibition has been in our executive session announcement for several years. This amendment codifies this practice in the rules.

Commented [DA8R7]: Committee approved this change on March 6, 2023

Commented [DA9]: Committee discussion was to limit executive sessions to in-person meetings. City Attorney added an emergency provision to all for virtual meetings. No emergency declaration is required but the reasons must be included in the record of the meeting.

Commented [DA10R9]: Committee approved limiting executive sessions to in person.

Commented [DA11]: Housekeeping:
Revised to match the language in the City's human rights code; adds "housing status."

Commented [DA12R11]: Committee approved this change on March 6, 2023.

Commented [DA13]: Housekeeping:
Amendment to align the rules with state law regarding remote attendance and participation.

Commented [DA14R13]: Committee approved change on March 6, 2023

Commented [DA15]: Housekeeping:
Past and current practice is to change the order of ...

Commented [DA16R15]: Committee approved change on March 6, 2023

Commented [DA17]: Committee Discussion:
Add presentations by city boards/commissions and ...

Commented [DA18R17]: Committee approved change to delete "ceremonial"

(2) Public comment (agenda items);

(3) Consent calendar (includes approval of minutes, adoption of routine resolutions, and items of business requiring Council action);

(4) Public hearings (includes deliberations, and deliberations from hearings held over from previous meetings);

(5) Special orders of business (includes consideration of items deferred from the consent calendar; any action item which requires a selection among options; unfinished business from another meeting consideration of matters of special importance to the Council; Mayor or Councilor items properly included on the agenda as provided by these rules; management reports; formal presentations by city boards, city commissions, city committees; and formal presentations by outside agencies providing services or engaged in other activities with the City); (Resolution 2016-44)

(6) Information reports (items that require no Council action);

(7) Ordinances;

(8) Public comment (other than agenda items); and

(9) Adjournment.

(b) Agendas. The Clerk of the Council shall prepare an agenda for every regular and special meeting. Agendas and informational material for regular meetings shall be distributed to the Council no later than the Friday preceding the meeting. No Council approval shall be required for an agenda of any regular meeting; agendas for special meetings shall be approved by majority vote of the Council.

(c) Placement of Items on the Agenda.

(1) The City Manager may place routine items and items referred by staff on the agenda without Council action.

(2) Any item placed on the consent calendar or matter raised during public comment may be placed on a subsequent agenda as a "special order of business" upon majority vote of the Council.

(d) Removal of Items from the Agenda. The City Manager may remove any item on the consent agenda, any item of old business, any resolution, or any ordinance placed for first reading from the agenda at any time prior to the time the meeting is convened.

(e) Postponement of Consideration Prior to the Meeting. Any Councilor may request that consideration of an agenda item be postponed to a subsequent meeting, if the Councilor is unable to attend the meeting during which the item has been scheduled for consideration. Any Councilor requesting postponement of consideration shall submit a request to the City Manager in writing as early as possible. The request to postpone should be honored unless the matter must be acted upon at that meeting due to deadlines or other matters of timing.

(f) Proclamations and Awards. Special recognition, awards given to or by the City of Salem, and proclamations which serve to encourage and educate the community may be placed on the agenda at the discretion of the Mayor, and, if placed on the agenda, may be included under opening exercises, items of

Commented [DA19]: Committee Discussion:

See note above, move to 1.4?

Commented [DA20R19]: No change needed.

special consideration, or information reports. Requests for proclamations should be submitted in writing to the Mayor.

(g) Council and City Manager Comment. The Mayor, each Councilor and the City Manager shall have the opportunity to make comment on any item of public interest during the opening exercises. The Mayor shall have a maximum of five minutes, and each Councilor and the City Manager shall have a maximum of two minutes for Council comment. Members of the public in attendance at the meeting may be recognized by Council, but may not speak during Council and City Manager Comment.

(h) Consent Calendar. ~~In order to~~ expedite the Council's business, the approval of minutes, and other routine agenda items shall be placed on the Consent Calendar. All items on the Consent Calendar will be approved by a single motion, unless the item is pulled for ~~further separate~~ consideration. Any item on the Consent Calendar may be ~~pulled removed~~ for separate consideration by any member of the Council. For the purposes of this rule, separate consideration means any proposal to adopt a different course of action than that recommended in the staff report, or a determination that debate on a proposed course of action is deemed desirable, any questions to staff on any item, and any item where a Councilor must declare a conflict of ~~interest~~.

(~~h~~) Council Notification of Land Use Decisions. For purposes of Council review under SRC 300.1050, notification of land use decisions shall be made by posting on the City's website, and by notification by [email to the citycouncil@cityofsalem.net](mailto:email_to_the_citycouncil@cityofsalem.net) listserv. Any member of the public may request to be placed on the listserv. Land use chairs of neighborhood associations shall be placed on the listserv. Posting shall occur no later than the time the meeting agenda where the items appear is published on the City's website preceding the meeting where an abstract of the decision is placed on the agenda. Call-up of a decision shall be made

(~~h~~)i on the first regular Council meeting following Council notification of the land use decision pursuant to this subsection. (Resolution 2016-44)

(~~h~~)i) Special Orders of Business. Agenda items that are deferred from the Consent Calendar; business that requires the selection from among options or that are of special importance to the Council; Mayor or Councilor items; any business held over from a previous meeting, other than public hearings and ordinances; management reports of special importance as determined by the City Manager; formal presentations by city boards, city commissions, city committees, neighborhood associations; and formal presentations by outside agencies providing services to or for, or engaged in other activities with the City, will be placed under Special Orders of Business. Items removed from the Consent Calendar shall have priority over any other Special Order of Business. (Resolution 2016-44)

Mayor and Councilor Items. New Business brought by the Mayor or Councilor shall appear on the agenda as a special order of business. Any member of Council requesting that an item of new business be placed on the agenda should submit the request to the City Manager, in writing, not later than 9:~~30-00~~ a.m. the Tuesday preceding the Council meeting. Any item of new business provided after this deadline may be added to the agenda as an addition, but shall not be acted upon at the meeting where first presented. (Resolutions 87-29; 92-41; 94-42; 97-125; 98-9; 98-206; 2001-19; 2002-81; 2009-35; 2009-95; 2011-46; 2012-2; 2016-44)

(~~h~~)k) Public Hearings. Public Hearings shall begin no later than 7:30 p.m. Unless otherwise required by law or Council motion, public hearings shall be scheduled by the City Manager, and may be rescheduled without further action by the Council. (Resolution 2016-44)

Rule 6: Communications

(a) Written testimony may be submitted electronically to CityRecorder@cityofsalem.net, by mail or in-person to City Recorder, 555 Liberty St, SE. Room ~~205220~~, Salem, OR 97301. To be included in the agenda

Commented [DA21]: Committee approved changes on March 6, 2023.

Commented [DA22]: Committee Discussion:

See note above for 1.4 presentations

Commented [DA23R22]: No change needed.

packet, communications to the Mayor and Council concerning matters on the agenda must be submitted to the City Recorder no later than 5:00 p.m. on the ~~Wednesday-Tuesday~~ prior to the date of the Council meeting where the matter will be considered. Written testimony submitted after 5:00 p.m. on the ~~Wednesday-Tuesday~~ prior to the date of the Council meeting where the matter will be considered will be distributed to Council in electronic format only and will be added to the applicable agenda item as practical. Written testimony submitted after 5:00 p.m. on the date of the meeting, including written testimony submitted in-person at a council meeting, shall also be submitted via email to CityRecorder@cityofsalem.net and citycouncil@cityofsalem.net. Testimony submitted after 5:00 pm on the date of the meeting will be provided to Council as soon as practical but may not occur until after the meeting. Any Councilor may, by motion, have a communication concerning a matter on the agenda that does not meet the timelines in this subsection included in the record of the applicable proceeding. (Resolutions 2018-75; 2021-33)

Commented [DA24]: Housekeeping:
Needed to allow for publishing the agenda on Wednesday

(b) Anonymous and unsigned communications shall not be introduced in Council meetings.

(c) Unsolicited communications to the Mayor and Council concerning matters not on the agenda shall be provided to the Mayor and Council upon receipt. A member of council may present any unsolicited communication which raises a matter of general interest to the City under new business and placed on a subsequent agenda for further discussion pursuant to Rule 5(~~4j~~).

(d) The City Manager may bring any matter raised by an unsolicited communication to the attention of the Council as an agenda item, provided that such communication is accompanied by a staff report setting forth the reason the matter should be considered by the Council and making a recommendation for Council action as needed. (Resolutions 87-29; 97-125; 98-206; 2001-19; 2012-~~2~~)

Commented [DA25]: Committee approved changes on March 6, 2023.

Rule 7: Minutes

(a) Minutes of all regular, special meetings and emergency meetings shall be comprised of a "final action agenda" and a recording of the meeting in electronic form. Minutes of all executive sessions and work sessions shall be comprised of a recording of the meeting in electronic form. Minutes shall be maintained in the office of the City Recorder.

(b) The "final action agenda" shall contain the following information:

(1) The date, time and place of the meeting or session;

(2) The names of the members recorded as either present or absent;

(3) Any motions, and amendments thereto, a record of all votes taken, and general description of all matters considered during the meeting.

(c) Approval of the minutes shall not require review of the electronic recording of the meeting or reading of the final action agenda in open meeting prior to approval. The final action agenda may be revised at any time by the City Recorder to correct spelling, numbering and other technical defects. Prior to approval, any member may request the amendment or correction of the final action agenda to accurately reflect the substance of any motion, amendment or matter considered during the prior meeting. If objection is made by any Council member to such amendment or correction, the amendment or correction shall only be made upon majority vote of the Council. (Resolutions 87-29; 2004-77)

Rule 8: General Decorum

(a) Presiding Officer. The Presiding Officer shall preserve decorum and decide all points of order, subject to appeal ~~to and majority vote of~~ the Council.

Commented [DA26]: Housekeeping:

Clarification, no substantive change

Commented [DA27R26]: Committee approved change on March 6, 2023

(b) Councilors. Councilors shall preserve order and decorum during Council meetings, and shall not, by conversation or other action, delay or interrupt the proceedings or refuse to obey the orders of the Presiding Officer or these Rules. Councilors shall, when addressing staff or members of the public, confine themselves to questions or issues then under discussion, shall not engage in personal attacks, shall not impugn the motives of any speaker, and shall at all times, while in session or otherwise, conduct themselves in a manner appropriate to the dignity of their office.

(c) Staff and Public. Members of the administrative staff, employees of the City and other persons attending Council meetings shall observe the same rules of procedure, decorum and good conduct applicable to the members of the Council.

(d) Removal of Any Person. Any person who disrupts a Council meeting making personal, impertinent, slanderous or unauthorized remarks or who becomes boisterous while addressing the Council or attending a Council meeting shall first be warned by the Presiding Officer that they are "out of order", and that further disruption shall be cause to remove the person from the meeting. If the person continues to cause a disruption after being warned, the Presiding Officer ~~shall may~~ direct the Sergeant at Arms to remove the person. In case the Presiding Officer should fail to act, any member of the Council may obtain the floor and move to require enforcement of this rule; upon affirmative vote of the majority of the Council present, the Sergeant-at-Arms shall be authorized to remove the person or persons, as if the Presiding Officer so directed.

Commented [DA28]: Housekeeping:

Gives the presiding officer discretion to remove.

Commented [DA29R28]: Committee approved change on March 6, 2023

(e) Enforcement of Decorum. The City Manager, or such member or members of the Salem Police Department as the City Manager shall designate, shall serve as the Sergeant-at-Arms of the Council meetings and shall carry out all orders and instructions given by the Presiding Officer for the purpose of maintaining order and decorum. (Resolution 2004-77)

~~(e)(f)~~ **The Presiding Officer may temporarily suspend a meeting if the Presiding Officer deems a suspension necessary to address a disruption.**

Commented [DA30]: Housekeeping:

Consistent with Council security procedures

Commented [DA31R30]: Committee approved change on March 6, 2023

Rule 9: Rules of Debate

(a) Every member desiring to speak shall address the ~~Chair~~ Presiding Officer, and, upon recognition by the Presiding Officer, shall confine ~~himself or herself~~ comments to the question under debate, ~~avoiding all personalities and indecorous language~~ observing the rules of decorum.

Commented [DA32]: Housekeeping:

Clarifications, no substantive change.

Commented [DA33R32]: Committee approved change on March 6, 2023

(b) A member, once recognized, shall not be interrupted when speaking unless it is to be called to order, or as herein otherwise provided. If a member, while speaking, be called to order, ~~he the member~~ shall cease speaking until the question of order be determined, and, if in order, ~~he the member~~ shall be permitted to proceed.

(c) The Council member moving the adoption of an ordinance or resolution shall have the privilege of closing the debate.

(d) Any Councilor may call for the question at any time. The Presiding Officer shall then ask whether any Councilor has further comments, and, if no Councilor requests the floor, vote shall be immediately taken. (Resolutions 87-29; 2004-77)

Rule 10: Consideration of Business

(a) Quorum. A majority of the Council shall constitute a quorum to do business. A lesser number may meet and adjourn from time to time and compel the attendance of absent members.

(b) **Voting.** Upon demand by any member of the Council, a roll call vote shall be made upon any question before the Council. ~~No Councilor~~Councilors may not explain the reasons for ~~his or her~~their vote during the roll call. The order in which roll call votes is taken shall rotate by ward from one roll call vote to the next, with the Presiding Officer voting last in each roll call vote.

Commented [DA34]: Housekeeping

Commented [DA35R34]: Committee approved change on March 6, 2023

(c) **Procedure Generally.** When the question has been called for, the Presiding Officer shall first ask for the Ayes followed by the Nays. After a vote has been taken, the Presiding Officer shall announce the results of the vote, and, unless the vote is unanimous, the vote of the members by name.

(d) **Voting Required.** Every member present when a question is called shall vote either Aye or Nay, unless the Council, by unanimous consent, excuses a member for a special reason or unless a member has a conflict of interest under applicable law, in which case no consent is required. There shall be no debate on such a request. Unless excused pursuant to this rule, if any member refuses or fails to vote, and the result of such refusal creates a tie, that member's vote shall be counted as an aye; in all other situations, that member's vote shall be counted with the majority. If a member is excused from voting as provided by this rule, that member may be counted toward making up a quorum but shall not be counted toward the minimum number of votes required to pass or reject a motion.

(e) **Minimum Votes Required in Certain Situations.** The passage of any ordinance shall require the affirmative vote of at least a majority of the whole membership of the Council.

(f) **Ayes and Nays.** The results of every vote, and the vote of each member by name, shall be entered upon the record.

(g) **Tie Vote.** In case of a tie in votes on any proposal, the proposal shall be considered lost. If a tie vote occurs in the appeal of any quasi-judicial matter, the decision by the lower-level decision maker shall be affirmed. (Resolutions 87-29; 2004-77; 2011-46)

Rule 11: Motion to Reconsider

A motion to reconsider any action taken by the Council may be made no later than the close of the next following regular meeting of the Council. Such motion must be made by one of the prevailing side, but may be seconded by any member, and shall have precedence over all other motions or while a member has the floor and shall be debatable. (Resolutions 87-29; 2004-77)

Rule 12: Substitute Motions

A substitute motion is a motion which proposes to replace a pending main motion in its entirety. If seconded, debate on the relative merits of the main motion and the substitute motion shall be in order. If approved, a substitute motion shall stand as the main motion, and the original main motion shall be deemed to have been rejected; if the substitute motion is rejected, vote shall proceed to the main motion. (Resolution 2004-77)

Rule 13: Councilors May File Protests against Council Action

Any Councilor ~~may file a protest against any action of Council and have such protest shall have the right to have the reasons for his or her dissent from, or protest against, any action of the Council~~ entered in the minutes. (Resolutions 87-29; 2004-77)

Commented [DA36]: Housekeeping:

Clarification.

Commented [DA37R36]: Committee approved change on March 6, 2023

Rule 14: Council Requests of Staff

A Councilor who desires major policy, ordinance research, or other major staff assistance must first raise the issue at a regular meeting. If the request of staff requires more than one hour of staff time, the request shall be approved by the Council ~~as a whole~~ before staff time is utilized. Councilor requests that involve less than one hour staff time may be approved by the City Manager without Council action. (Resolution 2004-77)

Rule 15: Public Comment

(a) Two periods for public comment will be reserved for every regular meeting of the Council. Each period shall not exceed a maximum of thirty minutes, unless a majority of Councilors present vote to extend the time. Subject to the limitations contained in subsection (e) of this section, the first period for public comment shall be limited to items placed on the agenda other than public hearings, and the second period of public comment shall be used to comment on any issue of City business, other than agenda items. The Presiding Officer may, unless a member of council objects, allow a person who desires to make comment on an item not on the agenda, to speak during the first comment period. ~~Persons appearing in person shall be allowed to speak first during public comment, followed by persons appearing remotely.~~ (Resolution 2016-44)

(b) Persons wishing to speak in-person during public comment must sign the "Speaker's Roster" with the person's name and address or ward and the topic upon which the person wishes to speak, not later than the end of the opening exercises. (Resolution 2021-33)

(c) Persons wishing to speak remotely during public comment may, consistent with the requirements and procedures established by the City Manager, register to speak ~~online remotely~~ via a link provided ~~by on~~ the ~~meeting agenda~~City. Members of the public may speak about any topic not on the agenda during the last period for public comment, except as provided in subsection (d) of this rule. (Resolution 2021-33)

(d) If a member of the public wishes to speak on an item that is scheduled for a public hearing at that same meeting or a future meeting, the speaker shall wait until that public hearing. Public comment shall not be used to testify about: a ~~pending~~ quasi-judicial land use matter; ~~a quasi-judicial land use decision that is on the agenda as an information report;~~ ~~to testify on~~ an item that is not a public matter; ~~to testify on~~ a matter which has been or is scheduled to be heard by a hearings official; ~~or to provide or gather additional testimony or information on any matter after the official record has been closed on~~ ~~any matter~~ which has been the subject of a public hearing. (Resolution 2021-33)

(e) Speakers are limited to three minutes. Generally, the speakers will be called upon in the order in which they have signed in on the Speaker's Roster, and the order in which they registered to speak remotely. Speakers shall identify themselves by their names and their address or ward. The Presiding Officer may allow additional persons to speak if they have not signed the Speaker's Roster if sufficient time is left in the thirty-minute period. Speakers appearing remotely must turn on their video and audio when providing comment. (Resolution 2021-33)

(f) Should there be more speakers than can be heard for three minutes each during either of the thirty-minute periods provided for public comment, the Presiding Officer may sort the requests to speak ~~or reduce the time allotted to each speaker~~ in order to afford the greatest opportunity for each topic to be heard.

(g) Councilors may, after obtaining the floor, ask questions of speakers during public comment. Members of council shall use restraint when exercising this option and shall attempt to limit questioning to no more than three minutes. The Presiding Officer may intervene if a member of council is violating the spirit of this rule. (Resolution 2021-33)

Commented [DA38]: Housekeeping:

Changes to this rule are to conform to state law for virtual meetings/remote participation.

Commented [DA39R38]: Committee approved change on March 6, 2023

Commented [DA40]: Committee Discussion:

This would prevent people from providing public comment on land use decisions on the information reports section of the agenda. There is a legal concern that such testimony could be a procedural violation, in that there was no hearing notice and not all interested persons would be aware they could testify as to the decision.

Commented [DA41R40]: Continued discussion.

(h) Speakers may play electronic audio or visual material during the time permitted for their comment. Speakers appearing in-person may utilize City provided audio or visual equipment located in the Council Chambers as a part of their comment but must provide the materials in a readable format to City staff prior to the meeting so that it may be installed on the City's equipment to avoid a delay or disruption of the meeting. Speakers appearing remotely must submit their media materials to the City prior to the meeting in accordance with requirements established by the City Manager. (Resolutions 2004-77; 2009-35; 2021-33)

Rule 16: Public Hearings Generally

(a) A public hearing may be held on any matter upon majority vote of the Council. Public hearings may be held to consider legislative, quasi-judicial or administrative matters.

~~(b)~~ Persons wishing to speak in person shall sign the "Hearing Roster" with the person's name and address prior

~~(e)~~(b) to the commencement of the public hearing at which the person wishes to speak. Persons wishing to speak remotely must sign up via the link provided in the meeting agenda.

~~(d)~~(c) The City Recorder shall announce at the commencement of any public hearing the subject of the hearing as it is set forth on the agenda. The Presiding Officer shall then declare the hearing open.

~~(e)~~(d) ~~Each person~~ Persons shall, prior to giving testimony, give ~~his or her~~ their name, ~~shall~~ indicate whether they are a resident of the City of Salem, and ~~may~~ give their address or identify the ward in which they reside. All remarks shall be addressed to the Council as a body and not to any member thereof.

~~(f)~~(e) Speakers at hearings on legislative or administrative matters, other than legislative land use matters, will be limited to three minutes. Speakers at a hearing on a quasi-judicial matter, other than a quasi-judicial land use matter, shall be subject to the following time limits:

(1) Staff presentation. ~~(15 minutes total).~~

(2) Applicant or Affected party. (15 minutes). Quasi-Judicial Hearing Only.

(3) Appellant, if other than applicant. (10 minutes). Quasi-Judicial Hearing Only.

(4) Neighborhood Associations. Appearance by a representative from any officially recognized neighborhood association which includes the affected area to present the association's position on the matter. (5 minutes total).

(5) Other interested persons. (3 minutes per person).

(6) Questions of Staff. (No time limit).

(7) Rebuttal by Applicant or Party. The scope of rebuttal is limited to matters which were introduced during the hearing. (7 minutes total).

(f) All individuals representing a single entity, such as an applicant, shall sign the speaker's roster or sign up to speak remotely, and shall identify themselves as representatives of the entity. The combined testimony of all individuals representing an entity shall be limited by the time limit for that entity (for example, if three individuals representing an applicant are signed up to testify, they have a combined 15 minutes to provide testimony).

(g) Councilors may, after recognition by the Presiding Officer, ask clarifying or follow up questions of individuals providing testimony after that individual has completed his or her testimony. Questions posed by Councilors should be to provide clarification or additional information on testimony

Commented [DA42]: Committee Discussion:

Clarifies that groups of people representing a single applicant or entity share the time allotted. Prevents gaming the system by having the reps sign up separately so they each get three minutes, plus the applicant's 15 minutes.

Commented [DA43R42]: Committee approved changes on March 6, 2023

provided. Questions should not be used as an attempt to lengthen or expand the testimony of the individual. Councilors shall be expected to use restraint and be considerate of the meeting time of the Council when exercising this option. The Presiding Officer may intervene if a Councilor is violating the spirit of this guideline.

(h) Councilors may, after the presentation of testimony of all interested persons, ask clarifying or follow-up questions of staff. Questions posed by City Councilors should be to provide clarification or additional information on testimony provided.

(i) The Presiding Officer may exclude or limit cumulative, repetitious, or immaterial matter. The Presiding Officer may order the testimony, alternating those speaking in favor and those in opposition, or having all speaking in favor testifying, followed by all those in opposition. The Presiding Officer, with the approval of Council, may further limit the time and/or number of speakers at any public hearing; provided that the Presiding Officer shall announce any such restrictions prior to the commencement of the testimony. In the event of large numbers of interested persons appearing to testify, the Presiding Officer, to expedite the hearing, may in lieu of testimony call for those in favor of the pending proposal or those in opposition to rise and direct the Clerk of the Council to note the numbers in the minutes.

(j) At the end of Public Testimony and Questions of Staff, Council shall initiate deliberations by introducing a motion on the matter; continue the hearing, or; keep the record open for additional written testimony. During deliberations, each member of the Council shall have the opportunity to comment on or discuss testimony given during the Public Hearing.

(k) A copy of any written testimony or physical evidence, which a party desires to have introduced into the record of the hearing, shall be submitted to the City Recorder in the manner provided in Council Rule 6(a). Communications concerning quasi-judicial matters are ex parte contacts, and a Councilor receiving any such communication that does not comply with Council Rule 6(a) must disclose the fact that such a communication has been received, and the content of the communication, ~~unless the communication is included in the record in the manner provided by Council Rule 6(a).~~

(l) Documents submitted to the City as evidence or written testimony during a public hearing are public records. If such a document contains the name, address, including e-mail address, and telephone number of the person, then it will be included in the record of the proceeding. Because the name, address, including e-mail address, and telephone number is part of a public record, this information will be generally disseminated to the public, and must be disclosed if a public records request is submitted for the documents. A person who believes such disclosure would present a danger to his or her personal safety, and who wishes to exempt his or her address, including e-mail address, and telephone number from disclosure must submit a written request for non-disclosure to the City Recorder consistent with Oregon public records law. Any such request must be submitted no later than 5 p.m. the ~~Wednesday~~ Tuesday preceding the meeting when the document will be entered into the record, and shall conform to OAR 137-004-0800, which requires the submission of documentary evidence that a danger to the person's public safety would exist if the information were disclosed. Upon a determination by the City that the criteria under OAR 137-004-0800 have been met, then the person's address, including e-mail address, and telephone number will be redacted from the record submitted for the hearing. (Resolutions 87-29; 94- 43; 2004-77; 2009-35; 2012-2; 2021-33)

Rule 17: Membership on Boards or Commissions

(a) Except for the Urban Renewal Agency Board, the Housing Authority Commission, or Salem Hospital Facility Authority Board, no member of Council may serve on a City, Urban Renewal Agency, or Housing Authority board or commission. Members of Council may serve on Council, Agency Board, or Housing Authority Commission committees that are advisory to staff or the Council, Board or Commission. (Resolution 2016-44)

Commented [DA44]: Housekeeping:

Redundant.

Commented [DA45R44]: Committee approved change on March 6, 2023

Commented [DA46]: Housekeeping:

Needed to allow for Wednesday publication.

Commented [DA47R46]: Committee approved change on March 6, 2023

Rule 18: Procedure for Filling Vacancies on the Council, Planning Commission and Budget Committee

(a) The Boards and Commissions Committee shall be a responsible for reviewing and making recommendations for filling Council vacancies, as provided by Section 20 of the Salem City Charter, and vacancies on the City's boards and commissions, as provided by Section 22 of the Salem City Charter, SRC 2.530-2.655, and any ordinance or resolution establishing a board or commission.

(b) When a Council vacancy occurs under Section 20(1) of the City of Salem Charter, and Council will appoint a person to fill the vacancy, or when a vacancy occurs on a City board or commission, the City Manager shall ensure that adequate public notice of the vacancy is disseminated. The notice shall inform interested persons that they may submit an application setting forth their qualifications and background and a statement of the reasons they wish to be considered to fill the vacancy; that the application materials shall be filed with the City Manager; and the deadline for submission of the materials. Any person who makes a timely submission and meets the qualifications shall be considered to fill the vacancy.

(c) After the deadline for the filing of application materials, the Boards and Commissions Committee shall review the application materials and determine whether the applicants have established they are qualified and otherwise eligible to serve. After such review, the Appointments Committee shall forward its recommendations to the Mayor, if the Mayor makes the appointment, or to the Council, if the Council makes the appointment. If the Council makes the appointment, the Council shall determine whether the recommended applicant or applicants should be interviewed or appointed without interviews. If the Council determines that the applicant or applicants should be interviewed, then interviews will be scheduled at a date convenient to the Council. Any Councilor may review all applications submitted and move that an applicant not otherwise recommended by the Appointments Committee be considered for appointment.

(d) If an incumbent seeks reappointment, the Boards and Commissions Committee shall review the incumbent's record and either recommend to the Council that the incumbent be reappointed or the position declared open. If reappointment is recommended and a majority of the Council concurs, the incumbent will be reappointed without interviews with the other applicants; if a majority of the Council does not concur, the position will be declared open. If the Boards and Commissions Committee recommends opening the position, the Council may, in its discretion, declare the position open or reappoint the incumbent without interviews with the other applicants. A decision to open the position does not exclude the incumbent from consideration for reappointment, but the incumbent must participate in the interview process.

(e) In the event additional vacancies on a board or commission occur within one year of the date a vacancy on the board or commission is filled, the Boards and Commissions Committee may, in its discretion, recommend that the vacancy be filled from the pool of applications submitted to fill the original vacancy.

(f) If the Council makes the appointment, the Council shall review the qualifications of the recommended applicant or applicants, including any interviews, the Presiding Officer shall call for a vote. If more than three or more applicants are recommended, those persons receiving the two largest number of votes shall be designated as finalists on the final ballot; provided, any applicant that receives a majority of all votes cast in the original vote shall be deemed appointed to fill the vacancy. The person receiving the largest number of votes in the final ballot shall be appointed to fill the position. In the event no applicant receives a majority of all votes cast, additional ballots shall be taken until one of the applicants receives the required majority. If only one person is recommended, and the Council does not direct that the vacancy be reopened, upon motion by the City Council, the City Recorder shall enter a

Commented [DA48]: Housekeeping:

Clarifies when this rule applies.

Commented [DA49R48]: Committee approved change on March 6, 2023

vote by acclamation for the applicant in the minutes. If the Mayor makes the appointment, the Mayor shall announce the appointments as a Mayor's item on the agenda.

(g) All ballots shall be in writing and signed by the Councilor casting the vote. The City Attorney shall tally the vote and announce the results.

(h) When a Council vacancy occurs under Section 20(1) of the City of Salem Charter and the vacancy will be filled by a vote of Salem voters, and only one candidate has been nominated at the primary election or the candidate has been elected at the general election, as the case may be, it is the Council policy to appoint that person to fill the Council vacancy for the remainder of the unexpired term.

(i) In order to maintain geographic balance, the appointive members of the Budget Committee shall consist of one elector from each ward and one elector from the City at large. (Resolutions 87-29; 94-14; 94-43; 2000-155; 2001-180; 2004-77; 2011-46)

Rule 19: Conduct of Hearings on Land Use Matters

(a) General Conduct of Hearings.

(1) Any party may speak in person, through an attorney, or elect to have a representative from an officially recognized neighborhood association present the party's case.

(2) A copy of any written testimony or physical evidence, which a party desires to have introduced into the record of the hearing, shall be submitted to the City Recorder in the manner provided in Council Rule 6(a). Communications concerning quasi-judicial land use matters received outside a public hearing are ex parte contacts, and a Councilor receiving any such communication that does not comply with Council Rule 6(a) must disclose the fact that such a communication has been received, and the content of the communication, unless the communication is included in the record in the manner provided by Council Rule 6(a).

(3) No person may speak more than once without obtaining permission from the Presiding Officer.

(4) Upon being recognized by the Presiding Officer, any member of the Council, the City Manager, City staff or the City Attorney may question any person who testifies.

(5) Testimony shall be directed towards the applicable standards and criteria which apply to the proposal.

(6) The Presiding Officer may exclude or limit cumulative, repetitious, or immaterial testimony. To expedite hearings, the Presiding Officer may call for those in favor and those in opposition to rise, and the City Recorder shall note the numbers of such persons for the record in the minutes.

(b) Quasi-Judicial Land Use Matters.

(1) **Scope of Review.** All appeals and Council-initiated review in quasi-judicial land use proceedings are de novo.

(2) Conflicts of Interest; Ex Parte Contacts.

(A) A Councilor shall not participate in the discussion or vote in a quasi-judicial land use matter if:

Commented [DA50]: Housekeeping:

Clarifies when this rule applies.

Commented [DA51R50]: Committee approved change on March 6, 2023

Commented [DA52]: Housekeeping:

Clarification, not a substantive change.

Commented [DA53R52]: Committee approved change on March 6, 2023

(i) The Councilor has an actual conflict of interest as defined by SRC 12.015(1), ORS 244.020(1), or ORS 244.120 or is prohibited from participating under Section 62 of the Salem City Charter;

(ii) The Councilor was not present during the public hearing; provided, however, the Councilor may participate if the Councilor has reviewed the evidence, including recordings of the hearing, and declares such fact for the record.

(B) Councilors shall reveal any ex parte contacts with regard to the proceeding at the commencement of any quasi-judicial land use matter. If such contacts impair the Councilor's impartiality, the Councilor shall state this fact, and abstain from participation in the matter.

(3) Burden of Proof; Standards and Criteria.

(A) The applicant has the burden of proof on all elements of the proposal, and the proposal must be supported by proof that it conforms to all applicable standards and criteria.

(B) The decision shall be based on the applicable standards and criteria set forth in the Salem Revised Code, the Salem Area Comprehensive Plan, and, if applicable, any other land use standards imposed by state law or administrative rule.

(C) The applicant and any opponents may submit to the hearing body a set of written findings or statements of factual information which are intended to demonstrate that the proposal complies or fails to comply with any or all applicable standards and criteria.

(4) Hearings Procedure. The order of hearings in quasi-judicial land use matters shall be:

(A) Land Use Hearing Disclosure Statement. The City Recorder shall read the land use disclosure statement, which shall include:

(i) A list of the applicable criteria;

(ii) A statement that testimony, arguments and evidence must be directed toward the applicable criteria or other criteria in the plan or land use regulation which the person believes to apply to the decision;

(iii) A statement that failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue; and

(iv) If applicable, a statement that a failure to raise constitutional issues relating to proposed conditions of approval may precludes an action for damages in circuit court.

(B) Call for Ex Parte Contacts. The presiding officer shall inquire whether any member has had ex parte contacts. Any Councilor announcing an ex parte contact shall state for the record the nature and content of the contact.

(C) Call for Abstentions. The presiding officer shall inquire whether any member must abstain from participation in the hearing due to conflicts of interest. Any Councilor announcing a conflict of interest shall state the nature of the conflict, and shall not participate in the proceeding, unless the vote is necessary to meet a requirement of a minimum number of votes necessary to take official action; provided, however, that the Councilor shall not participate in any discussion or debate on the issue out of which the conflict arises.

(D) Presentation of the Case.

(i) Staff Presentation. (10 minutes total).

(ii) Applicant's Presentation. (10 minutes total).

(iii) Appellant's Presentation, if other than the applicant. (10 minutes total).

(iv) Neighborhood Associations. Appearance by a representative from any officially recognized neighborhood association which includes the affected area to present the association's position on the proposal. (5 minutes total).

(v) Other interested persons. (3 minutes per person).

(vi) Questions of Staff. (No time limit).

(vii) Applicant's Rebuttal. (5 minutes). Rebuttal may be presented by the applicant. The scope of rebuttal is limited to matters which were introduced during the hearing.

(E) Close of hearing. No further information shall be received after the close of the hearing, except for specific questions directed to staff. If the response to any such questions requires the introduction of additional factual evidence, all parties shall be afforded an opportunity for rebuttal.

(F) Deliberations and Decision. Deliberations shall immediately follow the hearing. The Council may delay deliberations by closing the record and continuing the hearing to a date and time certain for the purpose of deliberations.

(5) Findings and Order. The Council may affirm, modify, reverse, or remand the decision of the lower Review Authority. In the event the decision is modified or reversed, the Council shall adopt findings to support its decision. The Council may incorporate findings proposed by the proponent, the opponent, staff, the hearings officer or the planning commission in its decision or may direct the prevailing party to prepare draft findings for consideration by the Council.

(6) Reopened hearings. The hearing may be reopened by the Council, upon majority vote, prior to decision, to receive additional testimony, evidence or argument. Notice shall be provided to the same persons who received notice of the original hearing.

(7) Continuances/Holding the Record Open.

(A) Procedure When Hearing Does Not Constitute the First Evidentiary Hearing. If additional evidence or documents are provided by any party after the date the staff report is made available to the public, the Council may allow a continuance or leave the record open to allow the parties a reasonable opportunity to respond. Any continuance or extension of the date for closing the record requested by an applicant shall result in a corresponding extension of the 120-day time limitations set forth under ORS 227.178-227.179.

(B) Procedure When Hearing Constitutes the First Evidentiary Hearing. Prior to the conclusion of a quasi-judicial proceeding which constitutes the first evidentiary hearing on the matter, any party may request an opportunity to present additional evidence, arguments or testimony regarding the proposal. Upon such request, the Council shall either continue the hearing or hold the record open as provided in this subsection.

(C) Continuances.

(i) If the Council grants a continuance, the hearing shall be continued to a time certain at least seven days after the date of the hearing. The continued hearing shall provide an opportunity for persons to present and rebut new evidence, arguments and testimony.

(ii) If new written evidence is submitted at the continued hearing, any person may request, prior to the conclusion of the continued hearing, that the record be left open for at least seven days to submit additional written evidence, arguments or testimony for the purpose of responding to the new written evidence.

(iii) Only one continuance is available of right under this subsection; provided, however, nothing in this subsection shall restrict the Council, in its discretion, from granting additional continuances.

(D) Holding the Record Open.

(i) If the Council holds the record open for additional written evidence, arguments or testimony, the record shall be left open for at least seven days after the close of the hearing.

(E) Reopening the Record or Hearing.

(i) If the record or hearing is reopened, any person may submit additional evidence, arguments or testimony to respond to the new evidence or new testimony submitted during the period the record was left open or raise new issues or make new arguments which relate to the new evidence, new arguments or new testimony.

(ii) The order of proceedings when the hearing is reopened shall be as follows:

(I) Applicant. (3 minutes).

(II) Other Persons. (3 minutes per person).

(III) Applicant's rebuttal. (5 minutes).

(8) Presentation of Final Written Argument. Unless waived by the applicant, the applicant shall have at least seven days after the record is closed to all other parties to submit final written argument in support of the proposal. The applicant's final submittal shall be considered part of the record but shall not include any new evidence.

(9) Effect on 120-Day Rule. Any continuance of the hearing or extension of the date for closing the record which is agreed to or requested by the applicant shall result in a corresponding extension of the 120-day time limitations imposed by ORS 227.178-227.179. A seven-day period for submittal of final written argument provided to the applicant shall likewise result in a corresponding extension of the 120-day time limitations. Any other continuance or extension shall be subject to the 120-day time limitations.

(10) As used in this subsection:

(A) "Argument" means assertions and analysis regarding the satisfaction or violation of legal standards or policy believed relevant by the proponent of a decision. "Argument" does not include facts.

(B) "Evidence" means facts, documents, data or other information offered to demonstrate compliance or noncompliance with the standards and criteria believed by the proponent to be relevant to the proposal.

(c) Conduct of Hearings on Legislative Land Use Matters

(1) Hearings Procedure. The order of proceedings for hearings on legislative land use matters shall be:

(A) Call for abstentions. Inquire whether any member of the Council wishes to abstain from participation in the hearing. Any Councilor announcing an abstention shall identify the reason therefor and shall not participate in the proceedings.

(B) Staff summary. Staff shall present a statement of the applicable criteria, and a summary and recommendation concerning the proposal.

(C) Officially recognized neighborhood association within the affected area. (5 minutes).

(D) Interested persons. (3 minutes per person).

(E) Response. The Council, upon majority vote, may allow any person testifying in favor, to respond to any testimony by a person opposed to the proposed change. (3 minutes per person).

(F) Close of hearing. No further information shall be received after the close of the hearing, except for responses to specific questions directed to staff.

(G) Deliberations and Decision. Deliberations shall immediately follow the hearing. The Council may delay deliberations to a subsequent time certain.

(2) Reopening Hearing. Prior to second reading of an ordinance relating to a legislative land use matter, and upon majority vote of the Council, a hearing may be reopened to receive additional testimony, evidence or argument. The same notice requirements shall be met for the reopened hearing as were required for the original hearing. (Resolutions 87-29; 2004-77; 2011-46; 2012-2)

(d) Consideration of Testimony submitted during the open record period. Pursuant to the requirements of Oregon law, Council delegates to staff the authority to determine if testimony submitted during an open record period should be included in the record. Testimony and evidence that may be excluded from the record may include, but is not limited to, new evidence when applicable rules prohibit new evidence, confidential information, or testimony submitted after the record is closed.

Rule 20: Ordinances

(a) Numbering. Proposed ordinances shall be known as ordinance bills. The City Recorder shall number all ordinance bills with a consecutive identification number during each calendar year, in the order of their introduction. Each number shall be followed by the last two digits of the year in which the ordinance was introduced.

(b) All ordinance bills shall, before presentation to the Council, have been approved by the City Attorney or the City Attorney's designee.

(c) Each ordinance shall contain a relating clause that identifies the subject of the ordinance, which shall be clearly expressed in its title. Ordinances that are being amended or repealed should contain the title of the ordinance or section number amended or repealed.

(d) An ordinance is introduced for consideration by the Council by presentation for first reading. After introduction, the Council may direct that a public hearing on the ordinance be held, refer the ordinance to committee for review and recommendation, refer the ordinance to the City Manager for further revision, pass the ordinance to second reading, or reject the ordinance in whole or in part. Notwithstanding this subsection, a public hearing may be conducted on subject matter before an ordinance on that subject is introduced at first reading.

Commented [DA54]: Committee Discussion:

This allows staff to reject testimony that is untimely or contains new evidence when the record has been closed to new evidence.

Commented [DA55R54]: Committee approved change on March 6, 2023

(e) When an ordinance is placed before the Council for final passage, the Clerk of the Council shall call the roll and enter the ayes and nays in the record of the Council proceedings

(f) All proposed amendments to an ordinance bill shall be in writing and may be made by interlineation upon the bill.

(g) No second reading of any ordinance shall occur at the meeting where it is introduced, except by suspension of this rule, and no ordinance shall be passed at a single meeting, except by unanimous vote for passage by all Councilors present.

(h) An affirmative vote of at least five members of the Council shall be necessary to pass an ordinance.

(i) When an ordinance is rejected by the Council, and is not reconsidered as provided by these rules, neither the ordinance, nor any other ordinance which contains substantially the same provisions, shall be considered by the Council for a period of not less than six months, unless at least five members of the Council petition for earlier consideration. (Resolutions 87-29; 92-206; 2004-77; 2004-110; 2009-35)

Rule 21: Designation of "Guest Councilor"

(a) Each councilor shall be allowed to designate a person as guest councilor to fill the seat of the councilor at a meeting, other than an executive session, in the event of his or her absence. In the event of an extended absence or a vacancy in a council seat, the Council as a whole may designate persons to serve in the capacity of guest councilor until such time as the successor takes office. A person designated as guest councilor must be an elector and a resident of the ward of the councilor whose seat is being filled and can serve as guest councilor only once each year. Notwithstanding the foregoing, a person designated to serve as a guest councilor, who is the councilor-nominee or councilor-elect for the applicable seat, may serve as guest councilor for multiple meeting dates as indicated by the councilor or council in the designation. Employees of the City of Salem and the spouses and immediate family members of city employees are not eligible for designation as guest councilors.

(b) A councilor shall make such designation by giving notice of the name and address of the person so designated, and the council meeting date or dates that the person shall serve as guest councilor to the Presiding Officer and the City Manager. If the designation arises because of an extended absence or a vacancy, the recommendation for designation shall be forwarded to the Council as a whole as a Mayor's Item or Councilor's Item, as the case may be. If approved by consensus, the person so recommended shall serve at the next council meeting, or, if more than one person is designated, the City Manager shall schedule the persons for council meetings at mutually acceptable times. Upon designation, the City Manager shall have the agenda packet delivered to the person for the council meeting at which the person will serve.

(c) No person filling the seat of a councilor pursuant to this rule may make or second any motion or vote on any matter coming before the Council. Guest councilors shall not attend executive sessions of Council, and shall not participate in deliberations on quasi-judicial land use matters. At any meeting where a guest councilor is filling the seat of a councilor, the Presiding Officer shall, at the beginning of the meeting, introduce the person to the other councilors and to the public. At any one-single meeting, no more than two guest councilors may attend.

Rule 22: ~~RESERVED~~Council Communications.

(a) Members of Council shall not send or forward emails concerning City business to other members of Council when the total number of members in the email thread constitutes a quorum of Council. This includes the sender or the email and all recipients, including recipients that are copied or blind-copied.

(b) City staff shall blind-copy Council when sending emails to all Council members to avoid inadvertent "reply-all" responses.

Commented [DA56]: Continued discussion.

Commented [DA57]: Committee Discussion:
Intended to address serial meetings.

Commented [DA58R57]: Continued discussion

~~(a)(c)~~ Council members desiring to send communications to all or a quorum of Council members shall submit the communication to the City Manager to be included in the agenda for the next regular Council meeting. Communications that need to occur prior to the next regular meeting shall be submitted to the City Manager and the City Manager shall forward the communication to members of Council as appropriate. Deliberations among a quorum of Council on City business may not occur through email or other means outside of a Council meeting.

Rule 23: Remote Attendance and Participation.

Members of the City Council may attend council meetings remotely via a virtual format provided by the City provided that all the following conditions are met: (Resolution 2021-33)

(a) The member of council notifies the City Manager not less than 24 hours prior to the meeting that the member would like to attend the meeting through electronic means. (Resolution 2021-33)

~~(b)~~ At the commencement of the meeting, the Council notes into the record the circumstances which are the basis of the Councilor's request to attend the meeting through electronic means.

~~(e)(b)~~ To avoid confusion and promote efficiency, if the Mayor will attend a meeting remotely, the Council President shall act as the Presiding Officer for the meeting; if the Council President will attend a meeting through electronic means, the Mayor may select a Pro Tem Council President for the meeting. (Resolution 2021-33)

~~(d)(c)~~ Persons, including members of council, wishing to participate remotely must have an adequate internet connection and computer or other device with adequate video and audio capabilities to participate remotely at a council meeting. (Resolution 2021-33)

~~(e)(d)~~ Except for an executive session, City Council meetings shall be broadcast simultaneously via public access television or online. (Resolution 2021-33)

~~(f)(e)~~ Members of the public shall be given an opportunity to remotely observe, and to participate in, city council meetings through the internet. The opportunity to observe council meetings is satisfied by the simultaneous broadcast of the meetings. The opportunity to participate is satisfied by making online registration for public comment and hearings available. The City is not required to provide or ensure that members of the public have access to a computer or other device in order to access the internet and participate in a council meeting. (Resolution 2021-33)

~~(g)(f)~~ Members of council and staff participating in a council meeting remotely shall enable their video feeds during the meeting, except that they may disable their video when temporarily leaving the meeting. Members of the public participating in a council meeting remotely shall enable their video while making public comment or testimony. (Resolution 2021-33)

Rule 24: Suspension and Amendment of Rules

(a) Except as otherwise provided by the Salem City Charter, any provision of these rules may be temporarily suspended by a vote of two-thirds of the Councilors present. The vote on any such suspension shall be taken by ayes and nays and entered upon the record.

(b) These rules may be amended, or new rules adopted, by a vote of two-thirds of the Councilors present, provided that the proposed amendments or new rules have been introduced into the record at a prior Council meeting not less than ten days prior to Council action on the proposed amendment or adoption. (Resolutions 87-29; 94-43; 2004-77; 2009-35)

Commented [DA59]: Committee Discussion:

Should there be a statement that in-person attendance by members is preferred and that remote attendance should only be utilized when circumstances warrant?

Commented [DA60R59]: Continued discussion

Commented [DA61]: Committee Discussion:

Not followed in practice. Seems inappropriate given new technology for hybrid meetings.

Commented [DA62]: Housekeeping:

Not necessary given the technology for hybrid meetings.

RESOLUTIONS AMENDING COUNCIL RULES

Council Rules First Adopted February 24, 1857

1. 87-29 Common Council adopting rules for conducting of its business and to govern its members, the same to be known as the Rules of the Council
2. 92-41 Updating the Rules of Council, amending Rule 1, Meeting of Council - deleting third Monday meeting; Rule 6, Order of Business - adding "Boards and Commissions Presentations"; and adding Rule 47, Council Fill-In
3. 93-23 Amending Council Rule 3 - setting Liquor Application Investigation Committee and the Boards and Commissions Appointments Committee as standing committees of Council; with an effective date of 3/18/93
4. 93-137 Amending Council Rule 1, Meeting of Council and Council Rule 44, Limitation on Duration of Evening Meetings - regarding the hour that evening Council meetings begin and end
5. 93-138 Amending Council Rule 3, Committees - regarding liquor license approval criteria
6. 94-14 Amending Council Rule 38, Procedure for Filling Vacancies
7. 94-37 Amending Council Rule 47, Designation of "Guest Councilor"
8. 94-42 Amending Council Rule 6, Order of Business
9. 94-43 Updating the Council Rules and superseding Resolution 92-41 - Rule 1, Meetings; Rule 3, Liquor Application Investigation Committee; Rule 6, Public Hearings; Rule 38, Procedure for Filling Vacancies; Rule 44, Limiting Duration of Evening Meeting; Rule 47, Designation of Guest Councilor
10. 96-44 Amending Council Rules by adding a new Rule 48, Council Member's Report on Events Attended at City Expense
11. 96-83 Amending Council Rule 45, Robert's Rules to Govern - adopting "Robert's Rules of Order Newly Revised" (9th ed. 1990)
12. 97-125 Amending Council Rule 6, Order of Business - relating to Proclamations and acceptance of written communications after close of public hearing
13. 98-9 Amending Council Rule 6, Order of Business - regarding the meeting agenda
14. 98-206 Amending Council Rules 1, Meeting of Council; 6, Order of Business; 17, Second Reading of Bills; and 19, Engrossed Bills; and repealing Council Rules 12, Communications Calendar and 22, Signing and Dating of Ordinances
15. 99-44 Amending Council Rule 1, Meeting of Council - changing evening Council meeting starting time from 7:00 p.m. to 6:30 p.m.
16. 2000-61 Amending Council Rule 1, Meeting of Council - relating to meeting time of Council
17. 2000-155 Amending Council Rule 38, Procedure for Filling Vacancies
18. 2001-19 Amending Council Rule 6, Order of Business - allowing testimony on communications at each "Appearance of Interest Citizens" on the Council agenda
19. 2001-180 Amending Council Rule 38, Procedure for Filling Vacancies, regarding Environmental Commission

20. 2002-81 Amending Council Rule 6, Order of Business- including the Pledge of Allegiance
21. 2002-151 Amending Council Rule 45, Robert's Rules to Govern - adopting Robert's Rules of Order Newly Revised (10th Edition, 2000)
22. 2004-72 Amending Council Rule 20, Designation of Guest Councilor
23. 2004-77 Revising Council Rules and renaming and renumbering current Council Rule 3, relating to liquor licenses, to Council Rule 17 (adding new Rules; adopting Rules in their entirety)
24. 2004-110 Amending Council Rule 20, Ordinances
25. 2004-132 Amending Council Rule 17, Liquor Application Investigation Board
26. 2009-35 Amending Council Rule 4, Council Meetings; Rule 5, Order of Business and Agenda; Rule 15, Public Comment; Rule 16, Public Hearings Generally; Rule 20, Ordinances; and Rule 22, Suspension and Amendment of Rules
27. 2009-95 Amending Council Rule 5, Order of Business and Agenda; and Rescinding Council Rule 17, Liquor License Application Investigation Board
28. 2011-46 Amending Council Rule 1, Robert's Rules Adopted; Rule 5, Order of Business and Agenda; Rule 10, Consideration of Business; Rule 18, Procedure for Filling Vacancies on the Council, Planning Commission and Budget Committee; and Rule 19, Conduct of Hearings on Land Use Matters
29. 2012-2 Amending Council Rule 5, "Order of Business and Agenda"; Rule 6, "Communications"; Rule 16, "Public Hearings Generally"; and Rule 19, "Conduct of Hearings on Land Use Matters"
30. October 26, 2015 Amending Council Rules 1,4,5,6,8,15,16,18,19,20,22, and 23.
31. 2016-44 Amending Council Rules 4,5,15 and 17
32. 2018-75 Amending Council Rule 6
33. October 26, 2020 Amending Council Rule 21, Designation of "Guest Councilor"
34. 2021-33 Amending Council Rule 4, Council Meetings; Rule 6, Communications; Rule 15: Public Comment; Rule 16: Public Hearings Generally; Rule 23: Remote Attendance and Participation.