



**AGENDA**  
**WORK SESSION OF THE**  
**WINDSOR HEIGHTS CITY COUNCIL**  
**TUESDAY, AUGUST 20, 2019 – 6:00 P.M.**  
**WINDSOR HEIGHTS COUNCIL CHAMBERS - 1133 66<sup>th</sup> ST**

Notice to the Public: If you would like the supporting documents and information, please call City Hall by noon the day of the meeting. You will need to pick up and pay for your copy by 4:15 p.m. per charges in the City Hall fee schedule. In consideration of all, if you have a cell phone, please turn it off or put it on silent ring. The use of obscene and vulgar language, hate speech, racial slurs, slanderous comments, and any other disruptive behavior during the Council meeting will not be tolerated and the offender may be barred by the presiding officer from further comment before the Council during the meeting and/or removed from the meeting.

- 1. Call to Order/Roll Call/Pledge of Allegiance**
- 2. Approval of the Agenda**
- 3. Discussion of Implementing Standard Operating Procedures (SOP)**
- 4. Adjourn to 6:00 pm on Tuesday, September 3, 2019 for a Regular Council Meeting at the Council Chambers.**

The agenda was posted on the official bulletin boards and email on August 15, 2019, in compliance with the requirements of the open meetings law.

**CITY OF WINDSOR HEIGHTS**  
**GOVERNING BODY RULES OF PROCEDURE**

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## **AUTHORITY**

Iowa Code Section 372.13(5) requires that "the council shall determine its own rules." The following rules shall be in effect upon their adoption by the Council and until such time as they are amended or new rules adopted. The City Clerk shall keep such rules on file for public inspection.

## **CHAPTER 1**

### **1.01 COUNCIL MEETING LOCATION**

All regular meetings of the Windsor Heights City Council shall be held in the Council Chambers at the Windsor Heights Council Chambers, 1133 66<sup>th</sup> Street, Windsor Heights, Iowa, unless determined by Council motion to hold a meeting at another location.

### **1.02 COUNCIL MEETING DATES AND TIME**

Regular meetings of the Windsor Heights City Council shall be held at 6:00 p.m. on the first and third Mondays of each month. If a regular Council meeting day falls on a legal holiday, the meeting shall be held on the next succeeding day that is not a legal holiday at the same hour unless a different day or time is determined by the Council.

### **1.03 ALL CITY MEETINGS AND RECORDS OPEN TO THE PUBLIC**

A. All regular and special meetings of the Windsor Heights City Council and all regular and special meetings of the City's Permanent Boards and Commissions (hereafter collectively referred to as "meetings") shall comply with Iowa Code Chapter 21, The Iowa Open Meetings Law and Chapter 22, The Iowa Open Records Law.

B. All Meeting Notices and all Meeting Agendas shall be timely posted on the official city bulletin board located at the entrance to the Windsor Heights Council Chambers, 1133 66<sup>th</sup> Street, Windsor Heights, Iowa, and shall be timely furnished to those media enterprises that have filed a written request for notice with the City.

C. Minutes of all meetings shall be maintained by the City Clerk for the time required by Iowa law and shall be available for viewing by any member of the public during normal City Hall business hours.

### **1.04 PRESIDING OFFICER**

A. The Mayor shall preside at all meetings of the Council and shall be recognized as the chief political officer of the City for all ceremonial purposes. In case of the Mayor's absence or temporary disability, the Mayor Pro Tempore shall act as Mayor during the Mayor's absence. In the event the Mayor resigns, the Mayor Pro Tempore shall temporarily act as the Presiding Officer. In case of the absence or temporary disability of the Mayor and the Mayor Pro Tempore, a Mayor Pro Tempore selected by members of the Council shall act as Mayor Pro Tempore during the joint absence or disability of both. Both the Mayor and Mayor Pro Tempore are referred to as the "Presiding Officer" from time-to-time in these Rules of Procedure.

B. A council member, while serving as Mayor Pro Tempore, shall retain all the powers of a council member, including the power to debate and vote on measures. Their presence shall be counted as a council member when determining whether or not a quorum of the council exists.

C. The Mayor Pro Tempore shall exercise all of the Mayor's executive powers and perform all mayoral duties during the Mayor's absence, including the duty to affix their signature on documents that require the Mayor's signature. With regard to measures passed by the council, the Mayor Pro Tempore may sign the measure or may take no action as provided by Iowa Code Section 380.6(3), in which case the measure becomes effective pursuant to Section 380.6(3). However, the Mayor Pro Tempore shall not have the power to veto a measure. In the event the Mayor Pro Tem takes no action on a measure and the Mayor resumes their office within fourteen days of the measure's passage by the council, the Mayor may sign or veto the measure within the fourteen day period.

D. The Presiding Officer shall preserve order and decorum, prevent attacks on personalities and the impugning of members' motives, confine members in deliberation and debate to the question under discussion and decide all questions of order. Their decision shall be final unless an appeal shall at once be raised. Such appeal shall then be decided by majority vote of the Council.

#### 1.05. QUORUM

Three (3) out of the total five (5) members of the City Council shall constitute a quorum for the transaction of business. When there is no quorum, the names of those in attendance shall be recorded and they shall adjourn to a later time or date. If no council member is present, the City Clerk shall adjourn the meeting.

#### 1.06. COUNCIL MEMBER'S NON-ATTENDANCE

Members of the Council who are unable to attend shall contact the Presiding Officer prior to the meeting and state their reason for their inability to attend the meeting verbally or in writing to the City Clerk. If the member is unable to contact the Presiding Officer, the member shall contact the City Administrator 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 and state the reason for such absence, and whether or not the absence is excused.

#### 1.07 COUNCIL MEMBERS' TELEPHONIC PARTICIPATION

In limited situations, a council member who is physically unable to attend a regularly scheduled council session may participate by telephone for all or a part of the Council session. For a maximum of two (2) regularly scheduled council meetings per year, a council member who is physically unable to attend a council session may participate via telephone and such member will be counted as "present" for purposes of determining whether or not a quorum exists and their vote shall count towards the total vote. For all absences in excess of two (2) regularly scheduled council meetings per year, the council member can participate via telephone, but the absent member is not counted as "present" for purposes of determining whether or not a quorum exists, and the absent member's vote on any measure does not count towards the total vote.

## 1.08 SPECIAL COUNCIL MEETINGS

Special meetings shall be held upon the written or oral call of the Mayor or upon the written request of a majority of the members of the Council submitted to the Clerk. Notice of a special meeting shall specify the date, time, place and subject of the meeting and such notice shall be given personally or left at the usual place of residence of each member of the Council, Mayor, City Administrator and the business office of each local newspaper, radio and television station which has on file a written request for notice of special meetings. Unless an emergency meeting is required such notice must be delivered at least twenty-four (24) hours prior to the meeting.

## 1.09 CLERK OF THE COUNCIL

The City Clerk shall be the Clerk of the Council, shall keep minutes and shall perform such other and further duties in the meeting as may be required by the Council, Presiding Officer or City Administrator. In the absence of the City Clerk, the Deputy City Clerk shall act as Clerk of the Council. If neither is able to attend the meeting, the City Administrator shall appoint another qualified staff member to act as Clerk of the Council.

## 1.10 COUNCIL MEETING AGENDA

All written petitions, communications and other matters to be submitted to the City Council for inclusion in the agenda packet for consideration at a scheduled regular, special, or other meeting should be delivered to the City Clerk no later than noon on Wednesday before the scheduled meeting. The City Administrator, in consultation with the Mayor, City Council and department heads will establish the agenda.

Except for items added by Council Member(s) under this following paragraph, the Mayor may add or delete items from the agenda.

A Council Member may request the Mayor to add an item to the agenda. If the Mayor believes the request is unreasonable or detrimental, the Mayor will inform the requesting Council Member that a second Council Member's support is required. The request for a second Council Member's support must be communicated no later than noon on Wednesday before the scheduled meeting; otherwise, the item will not be added to the agenda. Once a requested item is added to the agenda, only the requesting Council Member(s) or City Council may remove it.

The presiding officer shall have the authority to delete items from the agenda and change the order of items on the agenda during the meeting.

The City Administrator shall compile the agenda, listing all matters to be considered by the Council according to the order of business, lettering and/or numbering each item consecutively. A copy of the agenda, complete with all accompanying staff reports and other background materials, shall be known as the agenda packet. The agenda packet for any regular council meeting shall be delivered (paper or electronically) to each Council Member, the Mayor, City Attorney, City Administrator, and department heads no later than the Friday preceding the meeting. The agenda packet for any special or workshop council meeting shall be distributed to each Council Member, the Mayor, City Attorney, City Administrator, and department heads no later than the business day preceding the meeting. Any questions concerning an agenda item or any supporting documentation shall be submitted by phone, e-

mail or in person to the City Administrator for research and/or explanation or correction prior to noon on the day of the meeting. If such question is posed to the City Administrator for the first time at the meeting of the Council at which such matter is being considered, it may be appropriate for the Mayor, without further motion, to remove such item from the agenda and postpone consideration to a day certain to afford time for such research as may be necessary.

It is the intent of the City staff to make the agenda packet available to the public on the Friday preceding the regular council meeting. In the case of a special or workshop council meeting, the agenda will be available to the public no later than 24 hours prior to the scheduled meeting.

#### 1.11 WORK SESSIONS

The Council may conduct workshop meetings or study sessions on matters which are expected to come before the Council for informal action at a regular meeting or otherwise need study by the Council. Items to be considered will be placed on an agenda as required by the open meetings statutes. Workshops and study sessions may be conducted informally so long as such informality is not in conflict with these rules.

Final action on items is not taken during workshop or study sessions. No formal vote of the Council in favor or against any workshop or study session item may be taken.

Workshops and study sessions are not public hearings. The Presiding Officer may determine whether or not to allow public comment during a workshop or study session. No member or the public or interested party has the right to make a presentation or address the Council on an item under consideration in a workshop or study session.

#### 1.12 CLOSED SESSION

(Reference Code of Iowa §21.5)

A closed session may be held only by an affirmative vote of either 2/3 of the entire City Council or all of the members present at the meeting. The City Council may hold a closed session only to the extent a closed session is necessary and for the discussion of any statutorily authorized purpose as referenced in the Code of Iowa §21.5.

The vote of each member on the question of holding the closed session and the reason for holding the closed session shall be announced publicly at the open session and entered into the minutes. Final action on any matter will be taken in open session. The minutes and audio recording of a closed session shall be closed and shall not be open to public inspection. However, upon order of the court in an action to enforce this chapter, the detailed minutes and audio recording shall be unsealed and examined by the court in camera. The court shall then determine what part, if any, of the minutes should be disclosed to the party seeking enforcement of this chapter for use in that enforcement proceeding. In determining whether any portion of the minutes or audio recording shall be disclosed to such a party for this purpose, the court shall weigh the prejudicial effects to the public interest of the disclosure of any portion of the minutes or audio recording in question, against its probative value as evidence in an enforcement proceeding. After such a determination, the court may permit inspection and use of all or portions of the detailed minutes and audio recording by the party seeking enforcement of this chapter. A governmental body shall keep the detailed minutes and audio recording of any closed

session for a period of at least one year from the date of that meeting, or for as long as the matter is in litigation proceedings.

### 1.13 EMERGENCY CANCELLATIONS AND ADJOURNED MEETINGS

A. All meetings cancelled by reason of inclement weather or other *bona fide* emergency shall automatically be rescheduled to the next business day or evening at the same time and location as the original meeting, without the necessity of posting a new agenda and without formal Mayor, Council or Chairperson action. As soon as practicable following the cancellation, notice of the cancellation and the rescheduled time and date shall be posted on the bulletin board at City Hall and given to all media who have filed a written request for notice with the City Clerk.

B. Any meeting may be adjourned to a later date and time, provided that no adjournment shall be for a longer period than until the next regular or special meeting.

### 1.14 CITY ADMINISTRATOR

The City Administrator is appointed by the City Council to enforce its laws, to direct the daily operations of City government, to prepare and monitor the budget, and to implement the policies and programs initiated by the City Council. The City Administrator is responsible to the Mayor and City Council rather than to individual Council members, and directs and coordinates the various departments.

The City Administrator or their designee shall attend all meetings of the City Council unless excused by the Presiding Officer or Council. The City Administrator may participate in the Council's discussion on all matters on the Agenda and other matters concerning the welfare of the City. In the event that the City Administrator is unable to attend a Council meeting, the City Administrator shall appoint another qualified staff member (proxy) to attend the meeting on their behalf.

### 1.15 COUNCIL-MAYOR COMMUNICATIONS WITH CITY STAFF AND EMPLOYEES

A. The City of Windsor Heights has implemented a Mayor-Council form of government, in which it is the City Council's role to establish City policy and priorities, and the appointed City Administrator is directed to implement this policy and undertake the administration of the organization. The City Council is the legislative branch of the City and its staff is the executive/administration branch.

B. In order to uphold the integrity of the Mayor-Council form of government, and to provide proper checks and balances, members of the City Council shall refrain from becoming directly involved in the administration activities of the City. Neither the Mayor nor any Council member shall give directions or orders to staff members or employees, except in the extended absence or disability of the City Administrator or their temporary designee. Neither the Mayor nor any Council member shall make inquiries of staff members or employees, except for the limited, legitimate purpose of informing themselves regarding important affairs of an immediate and urgent nature during such times that the City Administrator may not be readily available.

C. City Council should avoid situations that can result in City staff being directed, intentionally or unintentionally, by one or more members of the City Council. While Council member



interaction with the City's employees is unavoidable, giving advice and direction in regards to other city employees, duties, working conditions, supervisors, etc. is discouraged. If an employee or staff member voices such a complaint with them, Council members may listen to such concerns and complaints, and are then instructed to refer any such complaints back to the City Administrator, or if the City Administrator is involved, to the Mayor, for follow up and action if needed.

Council members may remind the City's employees that they have a number of resources at their disposal to address employment issues if needed, including following the grievance procedure set forth in the Employee Personnel Manual or their collective bargaining agreement in the case of a union employee. This section shall not be construed as prohibiting or discouraging employees from reporting actual criminal acts or serious acts of personal misconduct directly contrary to the Employee Personnel Manual. However, the "whistleblower" should nonetheless be initially referred to the City Administrator, or if the City Administrator is involved, to the Mayor.

D. If Council members wish to communicate with the City's contracted service providers (i.e. engineers and legal council), the general course of conduct is to send such communication or requests to the City Administrator or Mayor, who will promptly forward the communication to the proper service provider. **In situations that are immediate and urgent in nature, the Mayor Pro Tem may communicate directly with the service provider.**

#### 1.16 COUNCIL MEETING DECORUM

While the Council is in session, all persons shall preserve order and decorum. Any person that refuses to abide by the rules shall be asked to leave the Council Chambers.

The following rules are hereby adopted for the conduct of those attending regular and special meetings of the City Council:

A. No person shall be permitted to stand in the Council Chamber during Council sessions between the audience seats and the Council members except the persons addressing the Council, who shall do so from the podium, and except City officials and employees on City business.

B. No person shall enter the raised area at the east and west ends of the Council table except upon invitation of the Council or a member thereof, and except City officials and employees on City business.

C. Any person desiring to address the Council may do so when recognized by the Presiding Officer, but the Council reserves the right to limit the speaker's time and the order in which the speakers may address the Council.

D. No person shall be interrupted while addressing the Council except by the Presiding Officer.

E. No member of the public shall be permitted to sit or lean upon the Council table during sessions of the Council.

F. No person shall use unreasonably loud or abusive language or any other language in the Council Chambers which disrupts or is intended to disrupt the peace, quiet, and good order of a

Council meeting The use of obscene and vulgar language, hate speech, racial slurs, slanderous comments, and any other disruptive behavior during the Council meeting will not be tolerated and the offender may be barred by the Presiding Officer from further comment before the Council during the meeting and/or removed from the meeting.

G. Those having business before the Council shall have the right to speak to items as they appear on the Council agenda, subject to the foregoing constraints.

#### 1.17 COUNCIL MEMBER DECORUM

Every Council Member desiring to speak shall address the Presiding Officer, and upon recognition by the Presiding Officer, shall confine comments to the question under debate, avoiding all indecorous language and references to personalities and abiding by the following rules of civil debate:

- We may disagree, but we will be respectful of one another.
- All comments will be directed to the issue at hand.
- Personal attacks will not be tolerated.

The following rules are hereby adopted for the conduct of Council Members during regular and special meetings of the City Council:

A. All Council Members shall preserve order and decorum and engage in civil, respectful and courteous discourse and behavior, both among Council Members and towards the public and City staff.

B. All Council Members shall have reviewed the agenda packet prior to the meeting and be prepared to engage in discussion and debate for each item.

C. A Council Member, once recognized, shall not be interrupted when speaking except according to rules of parliamentary procedure (e.g. for a point of order, parliamentary inquiry, question of privilege or appeal of Presiding Officer's procedural ruling.)

D. Council Members shall address all questions or remarks to the Presiding Officer; confine their remarks to the merits of pending questions; and shall not engage in personal attacks or accusations not related to official duties.

E. Council Members will strive to keep open minds on all issues prior to a vote, and will maintain as near neutral a position as possible to assure the openness that is required to carry out the Council's community responsibility.

F. There will be no "grandstanding" on any issue. "Grandstanding" refers to the misuse of the grandstand, or Council dais. It is the use of an individual Council seat on the Council dais in a disrespectful and inappropriate manner to state a point of view in any manner. Inappropriate uses include: personally attacking another Council Member, staff or member of the public; walking off the Council dais or leaving any meeting in anger or disgust; emphasizing a political point of view solely for the purpose of playing to the audience unrelated to the issue before the Council; using the dais for a strictly personal purpose; addressing the media for political purposes rather than addressing the Council as a body; or purposely misstating the facts of an issue for political purposes.

G. The City Council respects that the decision of the City Council is made by the majority and not by any individual Council Member. Members who are in the minority on an issue will respect the authority of the majority. Members who are in the majority will respect the right of the minority to express their disagreement with the majority decision. Once the agenda item has been voted upon, the City Council minority after making his/her position known for the record, must respect the decision of the majority.

H. Members of the City Council should not leave their seats during a meeting without first obtaining permission of the Mayor, or making a motion to recess.

I. The Council Member making the motion shall have the privilege of closing the debate.

J. Council Members shall not have their cell phones at the dais, except as directed by the Mayor for purposes of keeping time for public hearings and public forum comments.

## CHAPTER 2

### 2.01 SEATING ARRANGEMENT DURING COUNCIL SESSIONS

Council members shall occupy the respective seats in the Council Chambers assigned to them by the Mayor.

### 2.02 CONFLICT OF INTEREST DOCTRINE

Public meetings and formal action during those meetings are occurrences where *appearances* are as important as *substance*. The test of whether the appearance of a Conflict of Interest has been violated is as follows: "Would a disinterested person, having been apprised of the totality of a Council member's personal interest in a matter being acted upon, be reasonably justified in thinking that partiality may exist?"

### 2.03 CONFLICT OF INTEREST PROTESTS.

Anyone seeking to disqualify a Council member from participating in a decision on the basis of a violation of the Conflict of Interest 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.

### 2.04 INTERPRETATION OF THE RULES OF PROCEDURE

All City meetings shall be conducted in accordance with these rules of procedure, as well as any applicable state laws. To the extent an issue arises that is not addressed under these rules, then the City Council shall refer to the most recent edition of *Robert's Rules of Order* for resolution of the issue.

### 2.05 ORDER OF BUSINESS AT COUNCIL SESSIONS

The business of all regular Council meetings shall be transacted as follows; provided, however, that the Presiding Officer may, during a Council meeting, re-arrange items on the agenda for the purpose of conducting business more expeditiously or to accommodate out of town guests who are on the agenda.

The order of the agenda shall be as follows:

- A. Call to Order by the Presiding Officer
- B. Roll Call
- C. Pledge of Allegiance
- D. Approval of the Agenda
- E. Public Comment
- F. Public Hearings and Miscellaneous Hearings
- G. Approval of the Consent Agenda
- H. Old Business
- I. New Business
- J. Reports and Requests of the City Administrator
- K. Mayor and Council Member Comments
- L. Department Head Comments

- M. Closed Executive, if required
- N. Appropriate Follow-up, if any
- O. Adjournment

## 2.06 KEEPING OF MINUTES AND APPROVAL OF SAME

The minutes of the Council shall be prepared at the direction of the City Administrator and shall be recorded in a book kept for that purpose, with a record of each particular type of business transacted by the Council set off in paragraphs. The minutes must contain only a record of such business as was actually passed upon by a vote of the Council and shall not be required to contain a verbatim transcript of the proceedings. A record shall be made of the names of persons addressing the Council, the title of the subject to which their remarks relate and whether they spoke in support of or in opposition to such matter.

The City Administrator shall cause a copy of the minutes to be forwarded to the Mayor and each Council Member and department head, typically delivered with the agenda packet for the next regular meeting.

The minutes of the preceding council meeting may be approved without being read aloud, provided that the City Administrator has previously furnished each member of the Council with a copy of the minutes and that a majority of the Council has not requested such a reading. If Council members ask for changes to the minutes at the dais, approval of the minutes will be removed from the agenda to allow ample time for staff to review the tapes to ensure the change is warranted, and the minutes will be approved at a later meeting.

## 2.07 PREPARATION OF THE AGENDA AND CONSENT AGENDA

A. The City Administrator, in consultation with the Presiding Officer, shall place matters on the Consent Agenda which have been (a) previously discussed by the Council, (b) based on information delivered to members of the Council by administration that can be reviewed by a Council member without further explanation, (c) are routine or technical in nature that passage is likely, or (d) as directed by the City Council.

B. The published agenda shall list all items, including the titles of any ordinances or resolutions contained therein.

C. The motion to approve the consent agenda has the effect of moving to adopt all items on the Consent Agenda. It is assumed that all items listed on the Consent Agenda will be approved without dissent; however, any member of the Council shall have the right to remove any item from the Consent Agenda for separate consideration.

D. Prior to voting on the motion to adopt the Consent Agenda, the Presiding Officer shall inquire if any Council member desires to have an item withdrawn from the Consent Agenda. If any matter is withdrawn, the Presiding Officer shall place the item at an appropriate place on the agenda or direct that it be placed on the agenda of a future meeting.

## 2.08 CITIZEN PROCEDURES FOR ADDRESSING THE COUNCIL—AGENDA AND NON-AGENDA ITEMS

A. Public Forum—Non Agenda items. Members of the public in attendance at a council meeting who desire to address matters not on the current agenda may request time to address the Council during the Public Forum portion of the agenda, when provided. After being recognized by the Presiding Officer, the speaker must address the council from the podium. The speaker shall begin by first stating their name, address and the general subject of their presentation in a clear and audible tone of voice for the record. The Presiding Officer may then allow the comments subject to such time limitations as the Presiding Officer deems reasonable and appropriate, generally five (5) minutes. Time limits may be increased or decreased at the Presiding Officer's discretion.

At all times, the speaker shall remain respectful and avoid personal attacks. All remarks shall be addressed to the Council as a whole and not to any individual member. This is not a time to engage in dialogue with the Council. Without the permission of the presiding officer, only Council Members and the person addressing the Council shall be permitted to enter into any discussion. Individuals may not speak more than once during Public Forum.

Following the citizen comments, the Presiding Officer may place the matter on a future agenda, refer the matter to the City Administrator for further investigation and report or may make no further comment or disposition of the matter.

B. Public Forum—Group Presentations. Organized groups that wish to make a presentation longer than the time allowed will be required to contact the City Administrator or Mayor prior to the meeting.

C. Current Agenda Items. After a pending agenda item has been moved and seconded, but prior to council discussion and deliberation, the Presiding Officer may recognize citizens requesting permission to speak on a pending Agenda measure. All verbal presentations shall be made at the podium. The speaker shall begin by first stating their name, address and the general subject of their presentation. The Presiding Officer may change the order of speakers so that comments are heard in the most logical format, e.g., proponents, opponents, adjacent property owners, vested interests, etc. The Presiding Officer may allow the comments subject to such time limitations as the Officer deems necessary, generally five (5) minutes per speaker.

D. No comments from the public shall be made from any location other than the podium and anyone making "out of order" comments may be subject to removal. There shall be no demonstrations, applause, "boos", or cheers during or at the conclusion of a speaker's presentation. These rules are intended to promote an orderly and dignified system of conducting a public meeting, to give every interested citizen an opportunity to be heard and to ensure that no individual is embarrassed by exercising their right of free speech or their right to petition their government.

E. Citizen written correspondence (including emails) that is submitted for entry into the record pertaining to Agenda and Non-agenda items shall be received by the City Clerk no later than noon on the Wednesday prior to the following Monday evening's Council session. This will allow sufficient time for copies to be placed in the Council packets. No less than 10 copies of the Citizen's letter or other documents and any attachments must be delivered to the Clerk. In lieu of providing copies, a citizen may pay for City staff to run copies in accordance with the City's schedule of fees. City staff

will insert the materials into the Council packets that are delivered on Fridays, prior to the next Council session. This allows the Council to review the written documents and formulate their opinion as to how they would like to address or utilize the written communication. Written materials that are received on an Agenda item will be placed with all the information in the council packet pertaining to that particular subject and used in the decision making process.

F. Written citizen communications on subjects that are not on the agenda shall be addressed as follows: (1) the Presiding Officer may place the matter on a future agenda for formal action, (2) refer the matter to the City Administrator for investigation and report with directions to bring it back as an agenda item at a later date or, (3) accept and filed. A majority vote of the Council may compel the Presiding Officer to perform one of the three options by a majority vote of council that is present.

G. Once a written communication is placed in the Council packets it becomes a public record and that item is available upon request by any private person or the public media.

H. It is not necessary for the Presiding Officer to read the letter or other written communication aloud at a Council meeting.

## 2.09 PUBLIC HEARINGS

Interested persons or their authorized representatives may address the Council in regard to public hearing matters under consideration. Interested persons shall be limited to two minutes speaking time for all public hearing matters, unless additional time is granted by the Presiding Officer. A majority of the Council may object to the extension of time.

After a motion is made and seconded by a Council Member following a public hearing on the matter so moved, further discussion from the public on this matter will be denied, except upon the request of a Council Member through the Presiding Officer. The Council shall have the opportunity to discuss the matter, and then call the matter to vote.

## 2.10 PROCEDURE FOR COUNCIL ACTION

All Council Members shall vote when called upon to do so by the Presiding Officer, unless such Council Member has a conflict of interest as set forth in Section 2.02. The results of the vote shall be read aloud by the City Administrator or City Clerk. All ordinances, resolutions and other matters or subjects requiring action by the Council must be introduced and sponsored by a Council Member, by motion duly made and seconded. Debate shall not be permitted on a motion until it is seconded. After the vote has been called, there will be no further discussion or debate, except that members of the Council may be permitted by the Presiding Officer to explain their votes. All ordinances may be introduced and passed by reading the title only. Ordinances shall be read in full only when requested by a majority of the Council.

## 2.11 VOTING

Voting during Council Sessions shall be transacted as follows:

A. Roll Call. Unless otherwise provided for by statute, ordinance or resolution, all votes shall be taken by voice roll call vote. In the event of a voice roll call vote, the order of the roll call vote shall

be (1) the Council member making the motion, (2) the Council member that seconded the motion and (3) the remaining Council members in a clockwise direction.

B. Mayor Vote. The Mayor may vote to break a tie vote on motions *not* involving ordinances, resolutions or appointments made by the Council alone.

C. Conflict of Interest. Every member who is in the Council Chambers when roll is called shall give their vote unless the member has stated they have a conflict of interest, as set forth in Section 2.02.

D. Duty to Vote. In case any Council member refuses to vote “aye” or “nay” when not excused, their vote shall be counted and recorded as an “aye” vote. Since voting on Council matters is generally regarded as an essential and primary duty of a Council Member and the willful or habitual neglect or refusal to perform the duties of the office constitute potential grounds for removal from office, it is imperative that every Council member in attendance participate in voting unless excused due to the Conflict of Interest Doctrine.

E. Ordinance, Amendment or Resolution. Passage of an ordinance, amendment, or resolution requires a majority vote of all of the members of the Council unless otherwise required by statute (i.e., passage of a Resolution of Necessity in final form). If a proposed ordinance, amendment or resolution fails to receive sufficient votes for passage at any consideration, the proposed ordinance, amendment or resolution shall be considered defeated (Code of Iowa §380.3).

F. Motions. Passage of a motion requires a majority vote of a quorum of the Council.

G. Motion to Reconsider. A motion to reconsider may be made by any Council Member on the prevailing side and must be made at the same meeting as the original action. The motion needs a second. It is debatable, if the original action it reconsiders was debatable. The motion requires a majority vote to adopt and cannot be reconsidered.

H. Motion to Table. The council meeting agenda is generally modified during a council meeting when voting on the “Approval of the Agenda.” A motion to table an agenda item during a council meeting can only be used for a reason of urgency such as a Council Member or public participant arriving late, or needing to leave early and requesting an item be moved forward. A motion to table, for a *reason of urgency*, will only bring forward the **next** agenda item. If more than one item needs to be tabled before reaching the item in question, a motion to table several items at once could be made (i.e., “I move to table Items 8 through 15 in order to proceed with Item 16.”). A motion to table requires a second, is not debatable (the Presiding Officer may ask the maker of the motion to state their reason for tabling the motion), is not amendable, requires a majority vote for passage and, if adopted, cannot be reconsidered. The tabled item(s) may then be taken from the table by motion, second, and a majority vote as soon as the interrupting issue is disposed of. A motion to table should not be used to postpone an agenda item, to limit public debate, or to suppress a minority of the Council.

Items or motions that have been tabled, placed in the care of the City Administrator or Deputy Clerk, are not automatically placed on the agenda for the next meeting. If not taken from the table in the meeting at which tabled, there will be a notation made in the meeting’s minutes that the item(s) or motion(s) have been tabled. Council Members interested in taking action on a tabled item or motion



from the previous meeting must request that the item or motion be placed on the agenda the Wednesday prior to the next council meeting.

If a Council Member wishes to take action on a tabled item or motion during the meeting at which the item or motion had been tabled, the Council Member must bring back the item or motion by moving to “take (the item or motion) from the table.” The motion to “take from the table” needs a second, is not debatable and requires a majority vote. If an item or motion is not taken from the table during the meeting at which it was tabled or by the close of the next regularly scheduled council meeting, the item or motion dies.

I. Motion to Postpone. Postponing an item or a motion to a specific date and time ensures that the item or motion will be on the agenda at the adopted date and time. Any item or motion which is to be considered at the next meeting should be postponed to that meeting rather than tabled.

J. Tie Vote. When a tie vote occurs, the motion is lost.

## 2.12 TEMPORARY ADVISORY COMMITTEES

A. Special *ad hoc* citizen advisory committees and study committees, hereafter referred to as “temporary committees,” may be created by the Mayor for a particular purpose. Committee members and a temporary presiding officer shall be appointed by the Mayor, with the advice and consent of the Council. The presiding officer may appoint a Chairperson of the temporary committee. All such temporary committees shall sunset at the end of their mission, but no later than the end of each calendar year unless specifically continued by the Council for a specified time period. One Council member and one alternate Council member may be appointed as a member and liaison of a temporary committee.

B. If committees are used for specific projects or processes, the Committees shall make recommendations to the Council on proposed programs, services, ordinances and resolutions within their area of responsibility before action is taken by the Council. The Committee Chair may present the recommendations of the committee to the Council during Council’s discussion of the item.

C. Employees shall staff the various temporary committees as directed by the City Administrator, but no staff person shall serve as a voting member of a temporary committee.

D. Temporary committee members may be removed from the committee and a replacement member selected in the event such member misses two or more committee meetings.

## 2.13 MEASURES—ORDINANCES, RESOLUTIONS AND MOTIONS; MAYOR’S VETO POWERS; EFFECTIVE DATE OF MEASURES

A. An enacted ordinance is a legislative act prescribing a general, uniform, and permanent rule of conduct relating to the corporate affairs of the municipality. Council action shall be taken by ordinance when required by law or to prescribe permanent rules of conduct which continue in force until repealed, or where such conduct is enforced by penalty. Once an ordinance is duly enacted and published, it becomes law and the Council shall not grant any "special exceptions" or "one time exemptions" from the law. However, the Council is always free to amend any ordinance it may deem appropriate, at any time.

B. An enacted resolution is an internal legislative act which is a formal statement of policy concerning matters of special or temporary character. Council action shall be taken by resolution when required by law and in those instances where an expression of policy more formal than a motion is desired, or where a more complete written record is appropriate.

C. A motion is a measure passed by the Council directing that a specific action be taken on behalf of the municipality. A motion, once approved and entered into the record, is the equivalent of a resolution in those instances where a resolution is not required by law.

D. The Mayor may sign, veto, or take no action on an ordinance, amendment or resolution passed by the council.

E. An ordinance or amendment signed by the Mayor becomes effective when the ordinance or a summary of the ordinance is published, unless a subsequent effective date is provided within the ordinance or amendment. A resolution signed by the Mayor becomes effective immediately upon signing. A motion becomes effective immediately upon passage of the motion by the Council.

F. The Mayor may veto an ordinance, amendment or resolution within fourteen days after passage. The mayor shall explain the reasons for the veto in a written message to the council at the time of the veto. Within thirty days after the Mayor's veto, the Council may pass the measure again by a vote of not less than two-thirds of all of the members of the Council. If the Mayor vetoes an ordinance, amendment, or resolution and the Council re-passes the measure after the Mayor's veto, a resolution becomes effective immediately upon re-passage, and an ordinance or amendment becomes a law when the ordinance or a summary of the ordinance is published, unless a subsequent effective date is provided within the ordinance or amendment.

G. If the Mayor takes no action on an ordinance, amendment or resolution, a resolution becomes effective fourteen days after the date of passage and an ordinance or amendment becomes a law when the ordinance or a summary of the ordinance is published, but not sooner than fourteen days after the date of passage, unless a subsequent effective date is provided within the ordinance or amendment.

## 2.14 RESOLUTIONS

Except for franchise resolutions, a resolution may be put to its final passage on the same day on which it was introduced. The title of each resolution shall in all cases be read prior to its passage; provided, should a majority of the Council members present 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.

## 2.15 ORDINANCES

The procedure for enacting an ordinance is as follows:

A. The title of each ordinance shall in all cases be read prior to its passage; however, should a majority of the Council members present request that the entire ordinance or certain of its sections be

read, such request shall be granted. Printed copies shall be made available upon request to any person attending a Council meeting.

B. Required Readings. All ordinances require three readings prior to adoption. The second reading must be at least five days after the first reading unless waived. Upon a majority vote of the entire Council, the rule requiring the second and third readings of an ordinance may be suspended thus allowing the governing body to proceed with final adoption of the ordinance following its first reading. It is recommended that the second and third readings not be waived, except for ordinances involving only procedural matters that have little, if any, effect on the substantive rights of the citizenry. (*Code of Iowa, Sec. 380.3*)

C. A Council member may, in open session, move that the Presiding Officer direct staff to study the wisdom of enacting a particular ordinance and to report their findings to the Council at a later date. Such a motion shall require the affirmative vote of the quorum present.

D. If a motion to enact an ordinance or resolution fails at any stage of its adoption, the ordinance or resolution shall be considered defeated and shall not be reconsidered for a minimum of 12 months from its failure unless a majority of the Council reintroduces the ordinance or resolution, or as the result of a bona fide emergency as determined by staff and council, which emergency must be addressed by the city immediately.

E. Any ordinance amending or repealing any portion of the Code of Ordinances shall also amend or repeal the respective portions of any underlying ordinance(s).

## 2.16 CITIZEN COMPLAINTS, GRIEVANCES AND RECOMMENDATIONS TO COUNCIL

Citizen input regarding the affairs of the City should always be welcomed. However, the City must also conduct its business in an orderly fashion. In an effort to accommodate citizens who wish to bring important matters to the attention of the City, the following three alternatives are established for purposes of accommodating citizens while maintaining order and efficiency:

(1) First, a citizen may speak directly to a councilperson and state their concerns. The councilperson may then present the issue directly to the full council during the "Mayor and Council Member Comments" portion of the next meeting. If a majority of the Council or the Mayor is of the opinion that the issue should receive further attention, either may direct the City Administrator to investigate the issue further and report back to the Council at a later meeting. If it appears that the issue should be formally addressed and action taken, the Council or Mayor may direct that the issue in the form of a measure be placed on the formal Agenda during the next Council session.

(2) Second, a citizen may always appear at the Public Forum portion of the Agenda and orally present their issue before the entire Council. If the citizen desires to present written materials in addition to their oral presentation, they should deliver ten copies of those materials to the City Clerk by noon on the Wednesday prior to the next Monday evening Council Session. If, after the citizen's oral presentation, a majority of the Council or the Mayor is of the opinion that the issue should receive further attention, they may either direct the City Administrator to investigate the issue further and report back to the Council at a later meeting or if it then appears that the issue should be formally addressed and action taken, the Council or Mayor may direct that the issue in the form of a measure be placed on the formal Agenda during the next Council session.

(3) Third, a citizen may present a formal written petition which may be signed by any number of citizens, clearly identifying a perceived problem or issue, recommending a specific solution and asking for specific action by the council. This written Petition shall be delivered to the City Clerk who will place the same in the council packets for the next meeting, if received by noon on the Wednesday prior to the following Monday council session. It is recommended that the Petitioner also appear at the Public Forum and speak in support of the Petition. If, after reviewing the written Petition and hearing the Petitioner's oral presentation, the Mayor or a majority of the Council may either direct the City Administrator to investigate the issue further and report to the Council at the next session, or may direct the City Administrator to immediately place the issue on the formal Agenda for the next Council session for full consideration and appropriate follow-up by the Council.

In all three of the above alternatives, if neither the Mayor nor a majority of the Council directs the City Administrator to make an investigation and report, nor give direction to place the issue on the formal Agenda at a future meeting, the issue shall be deemed "inactive" and shall not be presented to the Council for 12 months following its initial presentation unless the Council passes a motion to reconsider the same prior to the expiration of 12 months.

#### 2.17 FILLING COUNCIL VACANCIES

If a vacancy occurs in the office of Mayor or Council member, the Council will follow the procedures outlined in the Code of Iowa. If the Council pursues the appointment process to fill the vacancy, and in order to appoint the most qualified person available until an election is held, the Council shall widely distribute and publish a notice of the vacancy, the procedure and any application form required. The Council shall draft an application form that contains relevant questions to answer as posed by the Council. The application forms will be used in conjunction with an interview of each candidate to aid the Council's selection of the new Council member or Mayor.

#### 2.18 PHOTOGRAPHS, MOTION PICTURES, VIDEO TAPE – PERMISSION REQUIRED FOR ARTIFICIAL ILLUMINATION

No photographs, motion pictures, or video tapes that require the use of flash bulbs, electronic flashes, flood lights, or similar artificial illumination shall be made at City Council meetings without the consent of the Presiding Officer or a majority of the Council.

All Council meetings shall be audio and/or video recorded by the City Clerk with the tapes archived for a period of three years unless certain meeting tapes need to be held longer due to legal proceedings.

#### 2.19 SUSPENSION OF RULES OF PROCEDURE

All provisions of these rules not governed by the Iowa Code or the City Code may be temporarily suspended by a majority vote of the entire Council.

#### 2.20 AMENDMENT TO RULES OF PROCEDURE

These Rules of Procedure may be amended, or new rules adopted, by a majority vote of all members of the Council, provided that the proposed amendments or new rules shall have been introduced into the record at a prior meeting.

## CHAPTER 3

### 3.01 LEGAL CONCERNS

Elected officials, like employees, may be held liable for what they both say and do, either individually or collectively. There may be case law or statutory responsibility for certain behaviors on the part of elected officials. The following is a description of the most common legal areas of concern.

Conflicts of Interest. There are a number of prohibitions commonly outlined in the statutes. Whether legally mandated or not, the following guidelines make sense, from a political, ethical and liability standpoint.

A. Elected officials should not fix their own wages or benefits during their immediate term of office.

B. Officials should not have a financial interest in, or vote on, a matter where the elected official's financial interest is especially affected.

C. An elected official should not have a personal financial interest in contractual matters over which they have any supervisory control.

D. A public officer should not hire his or her spouse or child as an employee.

When governing bodies hold hearings that affect individual or property rights, known as quasi-judicial proceedings, they should be governed by the same strict fairness rules that apply to cases in court. The rule basically states that hearings must not only be fair, they must also *appear* to be fair.

### 3.02 USE OF PUBLIC FUNDS, PROPERTY OR CREDIT

No elective officer or employee may use or authorize the use of the facilities, material or equipment of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office, for the promotion of or opposition to any ballot proposition or for any private purpose.

### 3.03 OPEN PUBLIC MEETINGS

Public agency actions and deliberations should be conducted openly, and all persons must be allowed to attend unless they create a disturbance that tends or may tend to interfere with the orderly conduct of the meeting, or unless otherwise excluded by law, such as closed executive sessions, labor negotiations and social gatherings unless city business is discussed. A meeting is generally defined as any gathering of a majority of governing body members where city business is discussed. All elected and appointed city officials must have a good working knowledge of Iowa Code Chapter 21, Iowa's Open Meetings Law.

Meeting places should not be designed to exclude members of the public and the time and place of a special meeting must be designated. If a meeting is relocated, final action may be taken only on written agenda items.

### 3.04 CLOSED EXECUTIVE SESSIONS

Closed Executive Sessions are defined as that part of a public meeting from which the public may lawfully be excluded. Executive sessions should be part of a regular or special meeting, are to state the legal purpose for the session, and are generally permissible to:

A. Review or discuss records which are required or authorized by state or federal law to be kept confidential or to be kept confidential as a condition for that governmental body's possession or continued receipt of federal funds;

B. Discuss application for letters of patent;

C. Discuss strategy with counsel in matters that are presently in litigation or where litigation is imminent where its disclosure would be likely to prejudice or disadvantage the position of the governmental body in that litigation;

D. Discuss the contents of a licensing examination or whether to initiate licensee disciplinary investigations or proceedings;

E. Avoid disclosure of specific law enforcement matters, such as current or proposed investigations, inspection or auditing techniques or schedules which if disclosed would enable law violators to avoid detection;

F. Avoid disclosure of specific law enforcement matters, such as allowable tolerances or criteria for the selection, prosecution or settlement of cases, which if disclosed would facilitate disregard of the requirements imposed by law;

G. Evaluate the professional competency of an individual whose appointment, hiring, performance, or discharge is being considered when necessary to prevent needless and irreparable injury to that individual's reputation *and that individual requests a closed session*; and

H. Discuss the purchase of particular real estate only where premature disclosure could be reasonably expected to increase the price the governmental body would be required to pay for the property.

I. Closed session discussions and results shall be confidential and not shared with the public, unless otherwise required by law.

All statutory requirements of the Iowa Open Meetings Law must be followed with proper documentation maintained. Violations of an Open Meetings requirement may result in a number of losses to the city and to the individual Council members.

### 3.05 DISCIPLINARY ACTION—DISCHARGE AND REMOVAL FROM OFFICE

Iowa Code Chapter 66 sets forth two methods for removing elected city officials. First, an action may be filed in the District Court by five registered voters who are residents of the city, by the State Attorney General or by the local County Attorney. Iowa Code Section 66.3. Secondly, removal may be accomplished by the City Council, *after* a hearing before the Council which must be initiated by

written charges filed with the Council. However, the removal requires a two-thirds vote of the *entire* Council. Iowa Code Section 66.29.

In either of the above cases, the removal must be based on one or more of the following reasons set forth in Iowa Code Section 66.1A:

- A. For willful or habitual neglect or refusal to perform the duties of the office.
- B. For willful misconduct or maladministration in office.
- C. For corruption.
- D. For extortion.
- E. Upon conviction of a felony.
- F. For intoxication, or upon conviction of being intoxicated.
- G. Upon conviction of violating the provisions of chapter 68A. (Iowa's Campaign Finance Law)

### 3.06 ADDITIONAL REMOVAL CONSIDERATIONS.

A. Elected Officials—Willful Misconduct in Office. With regard to an allegation of willful misconduct or maladministration in office, the Council shall consider any or all of the following as conclusive evidence of such conduct:

- 1. Repeated public criticism of the City or any of its officials or employees, where such criticism has no reasonable basis in fact and the criticism is obviously meant to maliciously harm the reputation of the City or the individual Officer or Official;
- 2. Repeatedly and intentionally engaging in libelous or slanderous attacks against the City or any of its Officers, Officials or Employees, where such conduct has no reasonable basis in fact;
- 3. For misuse, abuse, theft or misappropriation of City funds or property; or
- 4. Any other conduct which reasonably tends to erode or destroy public confidence in the City, its Officers, Officials or Employees, where such conduct has no reasonable basis in fact.

B. Elected Officials—Neglect of Office. Since a municipality can only operate as such by action and direction of its elected officials, and further, since all actions of a City's elected Council and Mayor must be taken during a regular or special Council Session, consistent attendance at all Council Sessions is the first duty of an elected Mayor or Council Member. Therefore, in determining whether or not sufficient reasons exist for the removal of an elected official pursuant to an allegation of willful *or* habitual neglect or refusal to perform the duties of the office, the Council shall consider all or any of the following as conclusive evidence of habitual neglect of the duties of the office:

- 1. Unexcused absences from four or more regular or special council sessions in any consecutive 12 month period;
- 2. Habitual tardiness in attending regular or special council sessions;

3. Repeated failure to attend or participate in a committee assignment or act as the Council's or Mayor's Appointed Representative or liaison with an ancillary body; or
4. Refusal to vote on any measure, except where a bona fide and legitimate conflict of interest exists and the reason for the conflict is stated at the time of the roll-call vote on the measure.

C. Elected Officials—Removal Procedure. Any aggrieved person may file a written petition with the city council seeking the removal of an elected city official. The petition must allege one or more of the reasons or grounds for removal as set forth in Iowa Code Section 66.1(A) and must be supported by a sworn affidavit alleging personal, first hand knowledge of facts which, if proven by a preponderance of the evidence, would warrant removal.

Provided the City has adopted an ordinance pursuant to Iowa Code Section 66.30 as to the manner of preferring and hearing removal procedures, the following procedure shall be followed:

1. The Petition shall be forwarded by the Council to the Mayor for an initial review to determine whether or not the allegations fall within the ambit of the reasons or grounds for removal set forth in Iowa Code Section 66.1A and Section 3.06(B) of these Rules and, secondly, if the attached affidavit or affidavits contain evidence to support the allegations in the Petition.
2. Within 14 calendar days after the Petition has been forwarded to the Mayor, the Mayor shall submit a written report to the Council stating whether or not the proper allegations have been made and if so, whether or not sufficient credible evidence exists that may warrant removal. If the report is in the negative, the petition will be dismissed.
3. If the Mayor's report finds that proper grounds have been alleged and that sufficient credible evidence may exist to support the Petition for Removal, the Mayor shall appoint a review board consisting of three council persons and the City Attorney to review the Petition and make a formal recommendation to the council within 14 days. If the Petition for Removal involves a councilperson, or if a councilperson filed the Petition, neither shall serve on the review board. A majority vote of the three council members shall determine whether or not to recommend further proceedings before the full council or dismiss the Petition. The City Attorney shall advise the review board with regard to all legal issues but shall not vote.
4. The review board's recommendation shall be considered by the full council at its next regular session. The council, by a two-thirds majority of the full council, shall vote on whether or not to proceed with the removal hearing or dismiss the Petition. If the Petition is dismissed, the council shall not consider a similar Petition against the same elected official, based on the same or similar facts for a period of 12 months from the date of dismissal. However, pursuant to Iowa Code Section 66.30, such dismissal shall not act as a bar to a proceeding in District Court seeking removal of the same individual.
5. If the council votes to proceed with the removal, a public hearing shall be scheduled within 30 days to determine whether or not to remove the official. For the Petition to



succeed, a two-thirds majority of the entire council must vote for removal. The Mayor shall not vote. The council shall hear all relevant evidence supporting the Petition and all relevant rebuttal evidence offered by the elected official. The Mayor or any Notary Public present may administer the oath to the witnesses. The City Attorney shall represent the City and shall present the evidence in support of the Petition.

6. If The Mayor is the subject of the Removal Petition, the Mayor Pro Tempore shall serve as Mayor for all removal proceedings set forth in these Rules.
7. A majority vote of the entire council shall compel the Mayor or Mayor Pro Tempore to appoint the review board and move forward with the proceeding in the event the Mayor refuses to act.
8. If a Removal Order is issued, the removed official may appeal to the District Court of Polk County by filing a petition for *writ of certiorari* within the time prescribed by the Iowa Rules of Civil Procedure.
9. Any elected official who is the subject of a Petition for Removal may be represented by counsel at all stages of the proceeding at their own expense.