



CITY OF
Mill Creek
W A S H I N G T O N

*Manual of City Governance
Policies, Procedures and Guidelines*

Resolution No. 2021 – 604

Adopted June 8, 2021

A Comprehensive Collection of
Governance Principles, Policies, Procedures,
Standards of Conduct, Meeting Rules
and References to Applicable Law

Introduction

In July 2011, the Mill Creek City Council adopted the first edition of this manual. Its purpose is to serve as a guide for the Council, city management and the community to the City's principles and procedures for operating as a non-charter, code city utilizing the Council/Manager form of governance.

With this second edition of the manual, the Council has had an opportunity to update rules and procedures in light of changes in the law, technology and best practices over the past decade.

The manual contains meeting rules, election procedures, administrative references, principles to guide councilmembers in the discharge of their duties and useful references to key state laws that regulate the conduct of the Council as an elected body and the City government as a whole.

This manual can be a valuable resource document for the City Council, City management and the community. The rules and other provisions in the manual should not be construed to invalidate any action of the City Council or City Manager that is otherwise in compliance with applicable law.

This manual (as adopted by Resolution) is a legislative act and is intended to remain in force and effect except to the extent that any portion may be subsequently be amended or rescinded by act of Council. See, however, Article 9, which explains certain limitations on the intended use of this Manual.

CITY OF MILL CREEK, WASHINGTON
RESOLUTION NO. 2021-604 __

THE CITY COUNCIL OF THE CITY OF MILL CREEK, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. Resolution No. 1 dated October 4, 1983, relating to the rules of procedure for the conduct of Council meeting and Resolution 2011-473, adopting the Manual of City Governance, Policies and Procedures adopted July 5, 2011, are hereby repealed.

Section 2. The rules set forth in this Resolution and those contained in the Manual of Governance, Policies and Procedures (“Governance Manual”), attached as Exhibit A constitute the official rules of procedure for the Mill Creek City Council. Where the rules of procedure are not addressed in this Resolution or in the Governance Manual, the Council shall be governed by *Roberts Rules of Order, Newly Revised*. In the event of any inconsistency or ambiguity, the order of precedence shall be (a) the provisions in this Resolution; (b) the provisions in the Governance Manual; and (3) *Roberts Rules of Order Newly Revised*.

Section 3. Public Testimony.

A. Oral and Written Communications and Public Hearings. The Council shall not take public testimony at regular Council meeting except for testimony given in Public Comment Periods, Public Hearings or at Oral Communications.

B. Rules for Public Participation. The following rules shall be observed during any Public Hearing, Public Comment, or Oral Communications opportunity. These rules do not apply to quasi-judicial appeal hearings.

1. For public hearings or public comment periods:

- a. No specific time limits are provided for public hearings; public comment periods at public hearings may be established for a specific amount of time but shall not exceed one hour unless approved by a majority of the Council.
- b. Any public hearing will begin with a staff report containing relevant background information, followed by any report or recommendation by any City board or commission that has studied the subject matter.
- c. Persons wishing to testify shall sign in on the sign-in sheet provided by the City Clerk and will be called to speak in the order in which they signed. Speakers will be allowed to speak for three minutes.
- d. The Mayor may allow additional time for receipt of written testimony when appropriate.

2. For public communications:

- a. There will be two opportunities for oral public communications at each regular session and study session on the agenda.

- b. Those wishing to speak will sign in or will raise their hands and will be recognized in the order called on by the mayor.
- c. Speakers will be allowed to speak for three minutes.
- d. If there is a public hearing on the agenda, speakers will not be permitted to speak on the agenda topic during oral communications.
- e. Persons speaking shall identify themselves for the record and provide their name, address, and organization, of appropriate.
- f. The City Clerk shall be the timekeeper.
- g. Persons participating in Council meetings are strongly encouraged to aid the Council in maintaining the decorum and orderly progression of the Council agenda. Engaging in shouting, use of profanity or slurs against others which results in actuals disruption of the Council meeting will entitle the chair to issue a verbal warning to the speaker and, inf the behavior continues, have the speaker removed from Council Chambers.
- h. Suspension of these rules will require unanimous consent or an affirmative vote by two-thirds of the Councilmembers.

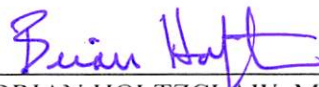
3. For Oral and Written Comments at Quasi-Judicial Matters and Appeals Before the City Council.

- a. Oral testimony shall be conducted in accordance with the procedures set forth in MCMC 14.09.050 unless specifically modified by the hearing body.
- b. Written comments on closed record appeals must be submitted ten days prior to any hearing and shall be reviewed to determine if they contain information not included in the record.

Section 4. Upon approval by the City Attorney, the city clerk or the code revisor are authorized to make necessary corrections to this resolution, including scriber's' errors or clerical mistakes; references to other ordinances, rules, state or federal laws; or numbering or references of sections and subsections.


Adopted this 8 day of June, 2021, by a vote of 7 for, 0 against, and 0 abstaining.

APPROVED:




BRIAN HOLTZCLAW, MAYOR

ATTEST/AUTHENTICATED:



NAOMI FAY, CITY CLERK

APPROVED AS TO FORM:



GRANT DEGGINGER, CITY ATTORNEY

FILED WITH THE CITY CLERK: 6/8/21

PASSED BY THE CITY COUNCIL: 6/8/21

RESOLUTION NO.: 202 1- 604

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Article 1: Principles

It is hereby the policy of the City to establish the principles stated in this Article I as core values of City governance:

1.1 Values

1.1.1 City Leaders Listen to the Community

City leaders listen to the community in a way that fully represents the community's interests and goals.

1.1.2 Collaboration is Valued

Council and staff should make the maximum effort to collaborate in every endeavor, seeking consensus as far as possible.

1.1.3 City Leaders Lead and Reason Together

Councilmembers should individually, and collectively, demonstrate the ability to lead and reason together.

1.1.4 The City Exemplifies Professionalism in City Management

City leaders exhibit respect for the professionalism and ethical conduct of the City Manager and staff.

1.1.5 Sustainability

Leaders strive to achieve sustainable outcomes in City policies and administration, with sustainable bottom lines for the community, environment, and for city finances and the local economy.

1.2 Relationship between Council, City Manager, Staff and Public

1.2.1 Council Oversees City Organization but Does Not Interfere with Management

Council has the statutory responsibility for approving the budget, positions, and salary schedule but is precluded by state law and city ordinance from interfering in the management of City employees.

1.2.2 Council and City Manager Roles and Responsibilities Differentiated

Leaders adhere to the separate and distinct policy and management roles of Council and City Manager. Administrative policy and complaints are handled by the City Manager and Department Heads; legislative policy is established by Council.

1.2.3 Performance-Driven Management

Council reviews the City Manager's performance annually. The City Manager is responsible for performance reviews of subordinates.

1.2.4 City Attorney Is Legal Counsel to the City and Its Officials Collectively

The City Attorney is hired by the City Manager and represents the City and in that capacity provides legal advice to the Council, City Manager and staff to the extent their interests coincide with the City's.

1.2.5 Staff Provides Information for Council Policy-Setting

Information will be provided to evaluate policy options and to make effective, timely decisions.

1.2.6 Council Will Not Request Unnecessary Information

In recognition of the limitations of staff time and resources, the Council will not request unnecessary information. Staff work on a particular project requested by an individual Councilmember may not exceed four hours without authorization by the City Council. The City Manager will review each request and provide an estimate of time the request is expected to take and when the work could be completed given available staffing and priorities. Council approval for requests exceeding an estimated four hours may be sought by raising the question or request under the New Initiatives item on the Council meeting agenda as is further described in Section 7.1.

1.2.7 Public Documents Ensure Open and Transparent Government

The Council and Administration will adhere to laws on public access to documents.

1.2.8 Communications to the Public are Essential

The City Manager or the City Manager's designee shall be responsible for communications to the public and in doing so shall apprise the Council of the timing and content of significant communications.

1.3 Functioning of City Council

1.3.1 There is a Council-Selected Mayor

The Council-selected Mayor presides as chair at meetings of the Council.

1.3.2 The Mayor Also Embodies Other Leadership Roles

The Mayor serves as the City's ceremonial head. The Mayor is the primary liaison between the Council and the City Manager.

1.3.3 Citizen Volunteers Play an Important Role

For citizen advisory committees, boards and commissions, an interview committee of Councilmembers interviews applicants and recommends appointments to the Council for confirmation.

1.3.4 Service on Regional Bodies and in Liaison Roles to Community Organizations is Shared Among Councilmembers

Annually in January, Council shall review and select assignments of Councilmembers as liaisons to regional positions, community organizations, boards and commissions.

1.3.5 Representatives of City Act in Accordance with City Policies

It is a duty of staff and Council who represent the City to advocate positions that are consistent with City policies, projects and plans.

1.3.6 Council is Mindful of Limited Resources

Reimbursement for Councilmember expenses is limited by state law, city budget and other policies. All expenses must be approved, appropriate and documented.

1.3.7 Council Authorizes Certain Grant Applications Before Submittal

If a grant would require material matching dollars or impact policy, the Administration will seek Council approval prior to applying. The administration will bring grant opportunities it becomes aware of to the full Council. The Council may also initiate the process of pursuing a grant.

1.3.8 Standing Committees

Because staff time and resources are limited, it is prudent to use Study Sessions of the whole Council rather than numerous Standing Committees. Consider utilizing a Standing Committee only if needed — e.g. Finance Committee. The standing committee will be appointed by the Council.

1.4 Efficiency and Effectiveness of Council Decision-Making

1.4.1 Council Makes Effective Use of Time

Council differentiates among four types of public meetings: (1) retreats; (2) study sessions; (3) business meetings; (4) public communications meetings and forums.

1.4.2 Council’s Business Meetings Will Be Efficient and Businesslike

The information exchange, review, deliberation and vetting of issues during prior Study Session enables Council business sessions to be efficient.

1.4.3 Effective Decision Making Requires Finality

Rules shall limit the prerogative to reconsider a Council decision; effective decision-making results in finality and “moving on”.

1.4.4 Council Dialog Shall be Respectful and Concise

The Chair’s role is to ensure that Councilmembers maintain a respectful tone, even when there is disagreement, and that all Councilmembers are heard.

1.4.5 Council Meeting Agendas Are Set by a Team

Agendas for Council meetings are developed to advance Council priorities and City administration in an orderly manner. The agenda for each meeting is developed by staff and reviewed weekly with the Mayor and Mayor Pro Tem. Items for future agendas are listed in every Council packet.

1.5 Functioning of City Manager and Staff

1.5.1 The City Manager’s Duties and Responsibilities are Statutory and Contractual.

Councilmembers understand that the City Manager’s responsibilities are set forth in state law, in city ordinances and in the City Manager’s employment contract with the City.

1.5.2 Council-Manager Governance Depends on a Skilled City Manager

The City Manager prepares the proposed budget; administers code and policy; appoints and removes city employees; serves as the City’s chief executive officer.

1.5.3 Regular and Understandable Financial Reporting

The City’s regular quarterly financial reports enable the Council and community to understand the City’s financial condition and are in harmony with accounting standards for governmental organizations, applicable law and municipal best practices, taking into account brevity, cogency, salience and clarity.

1.5.4 Council and Administration are Mindful of Risk Management

There is a periodic review of risk management with WCIA (Washington Cities Insurance Authority). The Council empowers the City Manager with a dollar authority level to settle minor disputes.

1.5.5 Public Information is Enhanced by Audio, Website & Notes

There is a full audio recording on the city website for each Council meeting. Minutes of meetings are concise and are approved and posted online in as timely a manner as possible.

Article 2: Defined Terms and Basic Rules

2.1 Types of Governing Bodies, and Advisory or Supporting Groups

2.1.1 City Council (or “Council”)

The Council consists of 7 officials, each elected to four-year terms. The terms are staggered with 3 or 4 terms expiring at the end of odd-numbered years. Individual Councilmembers do not have governing power as individuals, but only when meeting as a Council, when a quorum (4 or more) are present.

Unless otherwise noted, the use of the term “Council” in this manual will imply that the Council is acting as a legislative body based upon a majority vote of the Councilmembers.

2.1.2 Council Ad Hoc Committee

An Ad Hoc Committee is a temporary committee established by Council to investigate and advise Council on a specific policy or issue for future Council action, or to develop a legislative or policy proposal for Council on a particular topic. The Council determines the purpose of an Ad Hoc Committee at the time of establishing it. The Council may appoint up to three Councilmembers to an Ad Hoc Committee, and, if applicable, one or more citizens or subject matter experts who are not city employees. Furthermore, each Ad Hoc Committee shall include the City Manager (or his/her designee) and any City staff that the City Manager chooses to assign to the Committee. An Ad Hoc Committee shall sunset upon completion of the Council-assigned task.

2.1.3 Citizen Board, Citizen Committee or Citizen Commission

As defined by ordinance or resolution, a citizen board, committee or commission is generally a standing (rather than temporary) body with prescribed authority to perform a recurring advisory or decision-making role on behalf of the City as a municipal corporation. The list of such bodies, as that list may be amended from time to time, is found in Exhibit B. Procedures and rules that apply to such bodies are described herein, in ordinances establishing certain boards and commissions and in Council Resolutions governing public communications and public hearings.

2.1.4 Citizen Advisory Committee

A Citizen Advisory Committee consists of a group of citizens, established and appointed by the Council, which is tasked with the responsibility of advising the appointing body or Manager regarding some activity or pending decision of City government. Such a committee is normally formed on an ad hoc temporary basis to advise either the Council or City Manager (or a Council standing or ad hoc committee) on a particular topic relating to city legislation, policy or practices, or the means to carry out a proposed project or city activity.

2.1.5 Steering Group

The City Manager may recommend or the Council may establish a Steering Group to perform a temporary ad hoc task or project prescribed by the Council, such as organizing one or more forms of citizen engagement on a public issue, or providing direction and oversight for the implementation of a City project or program.

2.1.6 Small Task Group

The Council may, from time to time, create, and appoint members to, a small task group for the purpose of examining issues and making recommendations important to the City but not requiring the more formalized process of a larger task force, which may require a steering committee. The small task group may consist of one or more Councilmembers (but no more than three), one or more citizens or experts familiar with the issue or project, and the City Manager (or designee). In all cases, the instrument appointing a task force shall set forth a clear task assignment and a method of “sunsetting” the group upon completion of the task.

2.1.7 Multi-Agency or Regional Task Group

When a major regional effort involves key agencies outside of City government but vital to a project’s coordination, the Council may create by motion, legislative directive or intergovernmental agreement, an appropriately named multi-agency or regional task group (and may create a Steering Group to guide the task force effort). Membership shall consist of one to three Councilmembers (no more than three) and/or the City Manager (or designee), typically one representative from each partner agency, and, if applicable, representation from any private, consultant or non-profit agency with a key interest or resource vital to the issue or project.

2.2 City Officials and Adjudicators

2.2.1 Mayor

See the definition and duties stated in Sections 1.3.1, 1.3.2 and 4.3.

2.2.2 Mayor Pro Tem

See the definition and duties stated in Section 4.3.

2.2.3 Chair

The term Chair means the Councilmember who is to chair, or is in fact chairing, a Council meeting. Unless otherwise stated in the meeting agenda, the Chair shall be the Mayor unless the Mayor is absent, in which case the Chair shall be the Mayor Pro Tem (or, in the absence of both, the Councilmember who is elected by the quorum to preside at the meeting).

2.2.4 City Manager

See the definition and duties stated in Article 6 — City Administration.

2.2.5 Appointive Officers

The City’s Appointive Officers consist of the City Manager and those persons (who may or may not be City employees) who occupy any of the appointive offices stated in MCMC Section 2.08.

2.2.6 Council Liaison

With Council approval, a Councilmember serves a year term as the Council’s Liaison (i.e., representative), to an organization. A Liaison is responsible for facilitating communication, collaboration and coordination with the designated organization, and with regular reporting and

accountability to the Council. There are typically Councilmember Liaisons to three types of organizations:

- A county-wide or regional policy or governing body or intergovernmental organization (such as the Snohomish County Tomorrow Steering Committee)
- A community organization (such as the Mill Creek Business Association); and
- A governing or inter-agency board functioning in the city (such as the Parks and Recreation Board).

2.2.7 Hearing Examiner

The City regulates and adjudicates land use matters and other appeals using a Hearing Examiner system set forth in MCMC Chapter 4.34. The Hearing Examiner is appointed by the City Manager. Under MCMC Chapter 4.34, the examiner shall serve as the city's quasi-judicial hearings officer and shall have jurisdiction over the matters set forth in this chapter and MCMC 14.03.080. In the exercise of such jurisdiction, the examiner shall interpret, review and implement the city's land use regulations and the pertinent and appropriate provisions of MCMC Titles 14 through 18, shall hold hearings and hear appeals, and shall take such actions as provided by this chapter. In addition, the examiner shall take such action as may be specifically assigned by other sections of the municipal code or by ordinance or resolution, and as may be delegated or assigned from time to time by action of the City Council.

2.3 Types of Meetings of Council

2.3.1 Regular Meeting

A Regular Meeting of the Council is a meeting convened on a regular series of dates (and at a time) stated in City code. At a Regular Meeting, the Council may conduct any business stated on the agenda that is publicly posted prior to the meeting, or the Council may approve additions or deletions to the agenda at the meeting.

2.3.2 Special Meeting

A special meeting is a Council meeting called at a date or time other than the time prescribed by code for a Regular Meeting. At a special meeting, the Council may conduct any business stated on the agenda that is publicly posted prior to the meeting, or the Council may approve deletions (but not additional action items) to the agenda at the meeting.

2.3.3 Business Meeting

A business meeting is a regular or special meeting of the Council that is primarily for the purpose of voting on the City's business, generally in the form of motions, resolutions or ordinances. A business meeting includes a public comment period for a limited period of time stated in advance on the agenda, during which members of the public may address the Council on any matter of public concern (whether or not on the agenda).

2.3.4 Study Session

A study session is a regular or special meeting of the Council that is generally held in a more informal manner or setting than a business meeting, and where the purposes may be, for example, (i) to study, deliberate or review one or more topics or emerging issues for potential action at a future date, (ii) to vet the status of matters that are intended to be presented on the agenda of an ensuing business meeting unless exceptional circumstances apply, or (iii) to participate in presentations with City staff or other subject matter experts. In general, final votes

are not taken at a study session, but there are commonly procedural votes on the disposition of various matters. Any regular or special Council meeting may include a “Study Session”.

2.3.5 Workshop

A study session on a single topic or subject is sometimes referred to as a workshop.

2.3.6 Public Hearing on Ordinance

A formal public hearing may be required by statute or City ordinance as a portion of the prescribed public process for the Council’s adoption of the City budget, the City’s Capital Facilities Plan, and certain other legislative actions. In such a case, a public hearing is conducted according to certain formal public hearing rules prescribed by law, ordinance and/or resolution. The public hearing typically occurs during a publicly noticed portion of a regular or special meeting of Council, where the time of the hearing has been stated in the prior public notice.

2.3.7 Public Hearing on Quasi-Judicial matter

Certain Council reviews and actions that are akin to a judicial decision affecting a particular party or a particular set of one or more properties require that the Council conduct a formal public hearing of a “quasi-judicial” kind. Such a hearing is typically conducted by Council during a prescribed portion of a regular or special meeting and is performed in such a manner as to establish a clear record of proceedings, facts presented and the decision process according to judicial standards. A detailed discussion of quasi-judicial hearings can be found in Section 8.12.

2.3.8 Retreat

A retreat is generally a Special Meeting called for the purpose of very informal discussion dealing with goals, objectives and guidelines for future activity of the organization. At a retreat, the Council may, for example, develop goals and objectives for its own organization for the year, consider priorities for the Council work plan, or set goals for the City Manager which may be elements of an annual performance evaluation in accordance with the employment agreement. Although a detailed listing of the City’s activity plan for a coming year may result from informal consensus, formal adoption should be made in a regular Council meeting by motion or resolution.

2.4 Types of Public Participation in Government

2.4.1 Public Comment Period at Business Meetings

At Council Business Meetings, the agenda shall generally include one or more periods of time known as the Public Comment period. Within that time period, any member of the public may be recognized by the Chair and may address the full Council on any public issue — whether or not on the agenda. Unless Council determines otherwise, the Audience Communication periods at a Business Meeting is reserved for comments by the public rather than responses from Council or Administration.

2.4.2 Interactive Dialog with the Public at Study Sessions

At Council Study Sessions, the Chair shall determine the manner in which public comments and dialog are to be invited, depending on the nature of the Study Session and the amount of time available. In general, the Council may allow more flexibility in accommodating comments and dialog on agenda matters under discussion than is generally allowed at a Business Meeting, and the Council may allow responses and interactive dialog with Councilmembers, the Administration and/or other presenters.

2.4.3 Other Meetings with the Public Outside of City Hall

The Council may organize other meetings with the public in various forums outside of City Hall in various settings such as public forums, neighborhood meetings, presentations to community organizations, town halls, and so on.

2.4.4 Public Forum

When major public policy development warrants, and after adequate preparation of issues and alternatives, a steering group may conduct larger citizen forums to help develop a public consensus on the issues. The general procedure would be to provide basic information, to explore alternatives and options and to receive verbal and written public comments. The Steering Group shall summarize the conclusions and/or recommendations of such forums for presentation to the City Council prior to the customary City Council deliberations (i.e., agenda actions, public hearings, etc.) which could normally result in final action.

2.4.5 Neighborhood Meetings

Neighborhood meetings may be scheduled as part of a larger public process as designed by an Ad Hoc Committee, Steering Group or Task Force, however, any member of the Council may convene a citizens' neighborhood meeting or series of meetings for the purpose of providing a general forum on City matters. Such meetings shall, when convened, provide information pertaining to specific issues as well as an opportunity for citizens to ask questions or express views on any subject. The Council may request that the City Manager or his/her designee attend these meetings to answer questions on administrative matters. Although such meetings typically involve three or fewer Councilmembers and are therefore not official Council meetings, Councilmembers who attend shall report issues or conclusions to the Council. At any such meeting, a Councilmember should avoid discussion or comments which pertain to current or potential lawsuits or other quasi-judicial proceedings which might later come before the Council. Councilmembers should exercise care to avoid claiming to speak for the City or Council on any issue on which the Councilmember is not expressly authorized to speak for the Council.

2.4.6 Additional Avenues for Public Participation

Public process activities may also incorporate a range of tools such as press releases, newspaper columns, fact sheets, Q&A's, etc. as described in the City's documents and guidelines pertaining to public participation in various projects and processes.

2.5 Types of Governing Actions

2.5.1 Motion

An adopted motion is a form of action taken by the Council to direct that a specific course of action be taken or executed on behalf of the municipality. A motion is similar to a resolution but is generally much shorter and worded in a more informal manner than a resolution. A motion, once approved and entered into the record, is the administrative equivalent of a resolution in those instances where a resolution is not required by law, and where such motion is not in conflict with existing State or Federal statutes, City ordinances or resolutions.

2.5.2 Resolution

An adopted resolution is an administrative act which is less formal than an ordinance and is a statement of legislative policy, procedure or direction concerning matters of special or temporary character. Council action shall be taken by resolution when required by law or in those instances where an expression of legislative policy that is more lengthy or more meticulously worded than a motion is desired. While resolutions are often just a statement of policy, a resolution may have

the force of law (e.g., a resolution setting permit fees, or a resolution declaring certain City property to be surplus).

2.5.3 Ordinance

An enacted Ordinance is a local law (legislative act) prescribing general rules of conduct. Council action shall be taken by ordinance when required by law, or where prescribed conduct may be enforced by penalty. An ordinance is a legislative act within its sphere as much as an act of the State Legislature. The general guiding principle is that actions relating to subjects of a permanent and general character are usually regarded as legislative and should be addressed through an ordinance, and those providing for subjects of a temporary and special character are regarded as administrative and should be addressed through a resolution. (See *Durocher v. King County*, 80 Wn.2d 139, 153, 492 P.2d 547(1972)).

2.5.4 Comprehensive Plan Amendment

Such an amendment is a legislative act in which the Council amends all or part of the Comprehensive Plan after the Planning Commission has deliberated, held public hearings and made recommendation(s) to the Council. The Council likewise holds a public hearing before passage.

2.5.5 Budget Adoption or Amendment

Legislative acts adopting or amending the budget document for the City on an annual or biennial basis. Although the budget is a maximum spending plan, it must be managed by the City Manager to operate within actual revenue received for each fund.

2.5.6 Capital Facilities Plan (CFP) Adoption or Amendment

The CFP is a 7-year plan which is a companion to the budgeting process, and which establishes priorities for construction or replacement of capital facilities of the City.

2.5.7 Quasi-Judicial Ruling

Such a ruling is similar to a “judicial act” taken by an agency or authority that is not constituted as a “court” of law. A quasi-judicial ruling is an administrative ruling made by the Council, Hearing Examiner, or Design Review Board wherein the process and facts to be heard and judged are prescribed by regulatory laws or ordinances and as such, and are appealable to a higher authority or court of law.

2.5.8 Best Practices

Best Practices, as used in this manual, means methods of conducting certain activities of local government which have become widely accepted standards for a given local government activity. Best practices are often imported as a result of professional networking or from another similar agency which discovered a way to “do it better”.

2.5.9 Doing Things Right

While not defined in law, this phrase, as used in this manual, is an aspiration based on two criteria: (i) seeking out, and conforming to, the correct policy path for an action; and (ii) seeking out and emulating the best practices compatible with the activity, organization and culture.

Article 3: Standards of Conduct

3.1 Sources and References

In this Article, the following references are frequently cited as sources of law or explanations of applicable law and standards of conduct:

- Association of Washington Cities (AWC) and Municipal Research & Services Center of Washington (MRSC): “**Knowing the Territory: Basic Legal Guidelines for Washington City, County and Special Purpose District Officials**” (Nov. 2019) “RCW”: **Revised Code of Washington**
- “MCMC”: **Mill Creek Municipal Code**
- “OPMA”: **Open Public Meetings Act**

3.2 Standards of Conduct for Officials under Washington Law

A summary of various Washington state statutes and case law that impose duties and standards of conduct on a city’s elected and non-elected officials is found in the publication *Knowing the Territory- Basic Legal Guidelines for Washington City, County and Special Purpose Districts*. (MRSC 2019).

3.3 Oath of Office

A Councilmember, when sworn into office by the City’s City Clerk, swears that “I (fill in name)...having been duly appointed to the office of Councilmember of the City of Mill Creek, Washington, do solemnly swear [or affirm] that I will faithfully, impartially, and to the best of my ability perform the duties of my office as prescribed by law and that I will support and maintain the laws and ordinances of the City of Mill Creek and the laws and constitution of the State of Washington and the United States of America.”

The City Manager, and certain other City employees in key positions are likewise considered city officials and, when hired or promoted to officer status, are likewise sworn in with a similar oath that calls for compliance with those constitutions and laws.

3.4 Public Trust and Fiduciary Duty

“Courts have held public office to be synonymous with public trust and that a public officer’s relationship with the public is that of a fiduciary.” Public trust is a guiding concept in state statutes including the State Ethics Act (RCW 42.23), and in the OPMA (RCW 42.30).

The people themselves, in adopting Initiative 276, which enacted the state’s campaign and lobbying disclosure laws, declared trust to be the public policy of the State of Washington, stating in part: “That the people have the right to expect from their elected representatives at all levels of government the utmost of integrity, honesty and fairness in their dealings” and “That the people shall be assured that the private financial dealings of their public officials, and of candidates for those offices, present no conflict of interest between the public trust and private interests.”

3.5 Stewardship of Public Funds

The state law imposes the highest of duties on public officials who are custodians of public funds, such as treasurers. By analogy, there are provisions of law that impose other high standards for public funds on City officials generally, such as: (i) the State Constitution’s prohibition against making gifts to an individual or a for-profit or nonprofit corporation or association; (ii) the state law prohibitions against

using public facilities or property for political campaign purposes (RCW 42.17A.555) (discussed below); and state law requirements for bidding of public works projects (RCW 35.23.352) (MRSC, “City Bidding Book”) and for the giving of notice when seeking suppliers for other major purchases (e.g. RCW 39.80).

3.6 Conflicts of Interest under State Law

The state Supreme Court has ruled that a Councilmember may not vote on a matter where he or she would be specially benefited, and, with some exceptions noted below, Washington law forbids a city official from having a financial interest in a City contract, regardless of whether or not they vote on the matter.

Furthermore, state laws require public elected officials (in addition to candidates) to make financial disclosures at least annually (through the Washington Public Disclosure Commission (PDC)) so that the public is able to assess any potential conflicts. RCW 42.17A.700. Currently serving councilmembers must electronically file the statement of financial affairs by April 15th. Persons appointed to fill a council vacancy must file the statement of financial affairs within two weeks of appointment.

The annual financial disclosure also must include a list of each occasion, specifying date, donor, and amount, at which food and beverage in excess of fifty dollars was accepted, except for food and beverage consumed at hosted receptions where attendance is related to official duties. RCW 42.17A.710((1)(l) and (m).

These annual disclosures are in addition to those outlined in the Statement of Values/Rules of Conduct signed by the Council (Exhibit A).

State law (RCW 42.17A.555) also prohibits elected officials from using any facilities of a public office, directly or indirectly for the purpose of assisting a campaign for election. Facilities of a public office include the use of city stationery, equipment personnel, office space, vehicles or publications of the office.

3.6.1 State Code of Ethics

The Code of Ethics for Municipal Officers—Contract Interests codified in RCW 42.23, applies to all cities. Councilmembers fall within the definition of “municipal officers”. The standards contained in the State Ethics Code are considered to be minimum ones. The Act prohibits municipal officers from having beneficial interest in contracts under their supervision. Also, the act prohibits other conduct by municipal officers.

3.6.1.1 Private Interest in Public Contracts

- (a) The RCW 42.23 broadly prohibits the following conflicts of interest regarding a city contract (including, among other things, employment contracts):
- (b) “No municipal officer shall be beneficially interested, directly or indirectly, in any contract which may be made by, through, or under the supervision of such officer, in whole or in part, or which may be made for the benefit of his office, or accept, directly or indirectly, any compensation, gratuity or reward in connection with such contract from any other person beneficially interested therein ...”

- (c) This prohibition applies even if the official does not vote on or otherwise approve the contract that presents a conflict.
- (d) There are exceptions to the prohibition, and there is a qualified set of exceptions for certain “remote interests”.

3.6.1.2 Other Prohibited Acts

RCW 42.23.070 includes a list of acts that municipal officers are prohibited from doing:

- (1) using one’s City official position to obtain special privileges for oneself or others;
- (2) giving or receiving a gift in connection with a City matter;
- (3) accepting employment or engaging in a business that would require disclosing confidential information gained as a City official; and
- (4) disclosing confidential information gained as a City official or using such confidential information for personal gain. This provision includes the disclosure of information obtained in executive session.

Legal advice should be sought on such questions as:

- (a) Should a gift from an out of town dignitary be handed over from an official to the city as a whole?
- (b) Under what circumstances can an official accept expense-paid travel and lodging to a meeting or a fact-finding visit and what are the disclosure requirements?

3.6.1.3 Duty to Act in the Interests of the City

Based upon the provisions of the Ethics Act, Councilmembers shall comply with the following principles:

- No elected person shall use his or her position, or the knowledge gained therefrom, in such a manner that a conflict arises between the interests of the City of Mill Creek and his or her personal interests, or the interests of other organizations.
- Each elected person has a duty to place the interests of the City of Mill Creek foremost in any dealings with the City and has a continuing responsibility to comply with the requirements of this policy.
- If an elected official has an interest in
 - (1) a proposed transaction with the City in the form of a significant personal financial interest in the transaction; or
 - (2) any organization or member of immediate family involved in such transaction; or
 - (3) holds a position of trustee, director, officer or employee of such organization;

then he or she must make full disclosure of such an interest before any discussion or negotiation of such transaction and shall abstain from any vote on such matter.

3.6.2 Limitations on Holding Multiple Offices

There are state law prohibitions against an official appointing himself or herself to a second office or employment with the city (“dual office holding”), and there are certain combinations of public office that are considered to be incompatible and therefore not eligible to be held concurrently.

3.6.3 “Appearance of Fairness” Doctrine under State Law

- (a) The Appearance of Fairness doctrine applies only in those instances when a Councilmember is a decision-maker in a “quasi-judicial” matter defined as “actions of the legislative body, planning commission, hearing examiner or boards which determine the legal rights, duties or privileges of specific parties in a hearing or other contested proceeding.” RCW 42.36.010 (e.g. a property specific rezone, or a plat development approval). It does not apply to a Councilmember’s various legislative and policy decision-making such as adopting, amending or revising comprehensive plans or the adoption of area-wide zoning ordinances.
- (b) The “appearance of fairness” requires that the Councilmember not engage in “ex parte” communications with a party interested in the outcome of the quasi-judicial matter.
- (c) See Section 8.12 for a further discussion of the Appearance of Fairness Doctrine as applied to quasi-judicial hearings that are conducted by the Council.

3.7 Open Public Meetings under Washington Law

3.7.1 All Deliberations and Actions Must Be at Noticed Public Meetings

The OPMA requires that all meetings of city governing bodies (i.e., where a quorum or more Councilmembers, or members of some other “governing body” of the City, assemble to discuss or otherwise act on City business) must be open and public and that all “action” taken by such bodies be done at meetings that are open to the public.

“Action” means the transaction of the official business of a public agency by a governing body including but not limited to receipt of public testimony, deliberations, discussions, considerations, reviews, evaluations, and final actions.

“Final action” means a collective positive or negative decision, or an actual vote by a majority of the members of the governing body when sitting as a body or entity, upon a motion, proposal, resolution, order or ordinance.”

3.7.2 Applies to City Boards and Commissions

The OPMA applies to a “subagency” of the City, which may mean that a City board, commission, or similar entity created by or pursuant to state or local legislation is subject to elements of the OPMA, such as the Planning Commission. RCW 42.30.020(2) states that a “governing body” to which the OPMA applies includes a committee of the Council or other governing body “when the committee acts on behalf of the governing body, conducts hearings, or takes testimony or public comment.” The OPMA does not apply to court proceedings, quasi-judicial proceedings (such as Civil Service Commission hearings), or collective bargaining and

related labor relations meetings. It does not apply to purely social meetings where city business is not discussed.

3.7.3 Two Kinds of Meetings: “Regular” and “Special”

A “regular” meeting is one with regular dates, times and locations set by ordinance, resolution or rule. Any business may be conducted at a regular meeting, but RCW 35A.12.160 states that “every city shall establish a procedure for notifying the public of upcoming hearings and the agenda for the forthcoming Council meeting.”

A “special” meeting is a meeting other than a “regular” meeting, which may be called by the Chair (e.g., the Council’s Mayor) or a majority of Councilmembers. The notice of a special meeting must be posted at least 24 hours prior to the meeting and must state the items of business on the agenda. The Council may not add to the agenda of a special meeting without giving 24 hours’ notice of the added item.

3.7.4 Open to the “Public”

Under RCW 42.30.050, all persons must be permitted to attend a public meeting except unruly persons. Unless other laws impose limits on the number of people permitted to attend an indoor meeting, attendance may not be conditioned upon registration or similar requirements. The OPMA does not prohibit a requirement that persons identify themselves prior to testifying at hearings. In cases of disorderly conduct, disorderly persons may be expelled, and if that is insufficient to restore order, the meeting place may be cleared and/or relocated. However, non-offending members of the news media may not be excluded.

In extraordinary circumstances, such as an emergency proclamation issued by the governor preventing meetings in public, the Council may be authorized to conduct public meeting electronically and be deemed in compliance with the open meeting requirements of the OPMA.

3.7.5 Executive Sessions

An “executive session” is a portion of a public meeting that is conducted on a topic that is permitted by law to be discussed by a governing body or sub-agency in a non-public setting. As further provided by the RCW 42.30.110 in greater detail, an executive session may, in general, be conducted to discuss matters such as the following:

- (a) Real estate acquisition, lease or site selection; or deliberations on the price at which to offer real estate for sale or lease;
- (b) Negotiations on publicly bid contracts;
- (c) Evaluation of complaints or charges brought against a public officer or employee;
- (d) Evaluation of qualifications of an applicant for public employment or to review the performance of a public employee;
- (e) Evaluation of the qualifications of a candidate for appointment to elective office; or
- (f) To discuss with the City’s legal counsel City enforcement actions or litigation or potential litigation.

RCW 42.30.140 authorizes executive sessions to plan or adopt strategy or positions to be taken during the course of collective bargaining, professional negotiations, or grievance or mediation proceedings or reviewing the proposals made in the negotiations.

Councilmembers shall not disclose confidential information learned or confidential documents provided during an executive session unless waived by the full Council.

3.7.6 Unintended Meetings; Electronic Meetings

An unintended meeting may occur in violation of the OPMA if, without the requisite public notice, a quorum or more of a public body or sub-agency meets for an in-person or telephonic discussion or conducts an interactive email discussion of city business.

3.8 Open Government and Public Records

3.8.1 Purpose of the Public Disclosure Law

The Public Records Act codified in RCW Chapter 42.56 implements a portion of Initiative 276 that requires records prepared, owned or retained by government officials be made available for public inspection and copying. The Act is a strongly worded mandate for broad disclosure of public records. The Act states that its provisions are to be liberally construed and that its exemptions are to be narrowly construed.

Key Definitions and Provisions of the PRA:

A “public record” includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. RCW 42.56.010(3).

A “writing” means “handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including, but not limited to, letters, words, pictures, sounds, or symbols or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents, including existing data compilations from which information may be obtained or translated.

3.8.2 Emails and Other Electronic Records

Elected and other city officials shall do nothing to hinder the City’s obligation to possess, retain and store public records. Under RCW 42.56.010(2). a “public record ... includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.”

Under the state law definitions (above), an email, text messages (or an entry on a website, blog, twitter or a social media internet site) is a “writing”, and it is likewise a “public record” if it meets the definition above.

Additional regulations have been adopted which further elaborate on the legal duty of a city to store and archive — not only public records of traditional hard-copy kinds — but also electronic public records. (See Chapter 434-662 of the Washington Administrative Code (WAC)).

(a) Use of Email Platforms

In recognition of the desire to maintain open and transparent government, and to support the City's duty to accessibly store and archive electronic public records each email that contains information relating to the conduct of the government or the performance of any governmental or other City function, Councilmembers will:

- i. take all reasonable steps to ensure that each such email sent or received by him or her is sent or received on the City-maintained email system utilizing the individual's email address at cityofmiillcreek.com.,
- ii. cease utilizing any private, public or proprietary email service other than the City's, for the sending or receiving of any such emails that meet the definition of public records, and
- iii. establish an automatic reply message on any email service previously used for a Councilmember's public email correspondence, to automatically advise any email sender that any and all emails pertaining to City matters are to be sent to the Councilmember at the City-provided email address.

Each Councilmember who has been advised by the City Clerk to assist the City in preserving a copy of his or her emails pertaining to the work of the governing body, shall send a copy of each such email, as and when each is sent or received, to the City email address designated by the City Clerk for that purpose.

(b) Email Practices

With respect to any email sent by a Councilmember that contains information relating to the conduct of the government or the performance of any governmental or other City function, the email will be distributed through the City Manager or City Clerk, and any Councilmember who receives such an email shall not forward the email to any other Councilmember.

(c) Use of Personal Social Media Accounts

Possession or use of any personal social media accounts such as Facebook, Instagram or Twitter is not a requirement for serving on the City Council. The City does not maintain or support such accounts. If a councilmember chooses to have personal social media accounts, posts related to the conduct of city government may constitute a public record subject to a public records request and require the Councilmember to search for and provide the record or a declaration stating that no such records exist. Determination of whether a record was prepared by the City will involve reviewing whether the Councilmember was preparing the post within the scope of his or her employment and whether the councilmember was furthering the City's interests. Relevant factors include whether the Councilmember was acting in his/her official capacity and whether the post could be considered as conducting City business.

3.9 Statement of Values/Rules of Conduct

The City Council strives to provide excellence in public service by respecting and protecting individual rights, acting with integrity, and fostering public trust. In performing their duties on behalf of the City Councilmembers will endeavor to demonstrate the values of respect, honesty, and trust.

The Statement of Values/Rules of Conduct (Exhibit A) will be signed by the all members of the Council every two years or upon swearing in of new Councilmembers.

3.10 Duties to Act Consistently with City Policy When Representing City Elsewhere

Both elected City officials and non-elected City officials are frequently called upon to participate in policy bodies and decision-making forums at the county and regional level. Whenever any City official (whether elected or staff) is directly or indirectly representing the City on a policy making or decision-making body at the county or regional level, it shall be the duty of that individual to act in a manner consistent with the interests of the City, as embodied in City policy, interest statements, budget, capital facilities plan or other action of Council or directive of the City Manager.

3.11 Conduct of Officials with Regard to Litigation Against City

Once an individual or organization has filed a legal proceeding against the City, no City Councilmember shall engage in discussions or other communications with such individual (or the officers or directors of the organization) about the subject of the lawsuit without first disclosing the intent to do so to the Council, either in public or in executive session. The conflict of interest rules described in Article 4 may apply to elected officials with regard to individuals or organizations threatening or pursuing a lawsuit against the City.

3.12 Duty to Bargain in Good Faith with Collective Bargaining Representatives

Unions have a significant presence in Washington cities. Most city employees have the right to organize under state law and have joined state-wide unions or formed local associations. The city must negotiate labor contracts with these unions over wages, hours and working conditions.

In particular, most police departments are unionized. Except for very small cities, police unions have access to interest arbitration when an impasse in bargaining occurs. This can create a unique dynamic in police negotiations, given the potential for an outside arbitrator to make decisions regarding wages, benefits and contract language.

Certain City employees are represented by the American Federation of State, County & Municipal Employees (AFSCME) and police officers are represented by the Police Guild.

It is the policy of the City that it shall be the responsibility of the Council to set policy for collective bargaining, and the responsibility of the City Manager to engage in such collective bargaining.

3.13 Immunity and Indemnification of Officials for Individual Actions in Good Faith

An appointed or elected official or member of the governing body of a public agency is typically immune from civil liability for damages for any discretionary decision or failure to make a discretionary decision within his or her official capacity. Liability may attach to the public agency for the tortious conduct of its officials or members of the governing body. (See RCW 4.24.470(1)) To the extent official is entitled to immunity, it is because the official's actions were taken in good faith in the course of performing within the scope of the official's duties.

The City is insured through the Washington Cities Insurance Authority (WCIA). WCIA provides coverage for damage claims and/or lawsuits brought against the City and its officials. If a damage claim involves a covered claim against a City official, then WCIA will retain legal counsel to defend the City official and will generally pay any resulting judgment or settlement amount. Please note WCIA coverage is only available if the situation is the result of a City official acting within the scope of her or his official duties and is the matter not otherwise excluded from coverage through WCIA's compact with the City.

Additionally, in the event that a damage claim and/or lawsuit is brought against a City official that is related to the performance or failure to perform his or her official duties and the matter is not covered through WCIA, the City may provide legal representation to defend the City official and may indemnify the City official if warranted. The City will not indemnify and defend a City official acting outside the scope of his or her official duties, or if the claim and/or lawsuit is based upon a dishonest, fraudulent, criminal, malicious, or other improper act.

Article 4: City Council - The Elected Governing Body

4.1 Council Meeting - Time and Location

Regular Meetings of the Council in the form of Business Meetings and/or Study Sessions shall be held on the dates and times as adopted by Council ordinance, unless cancelled or postponed in accordance with applicable State or local procedures. Special meetings may be called by the Mayor or by a majority of Councilmembers.

4.2 Council Meetings — Open to the Public

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

4.3 Mayor and Mayor Pro Tempore — Election

RCW 35A.13.030 requires that “biennially at the first meeting of the new Council the Members thereof shall choose a chairman from among their members... [who] shall have the title of Mayor and shall preside at meetings of the Council”.

RCW 35A.13.035 provides that “biennially at the first meeting of the new Council, or periodically, the members thereof, by majority vote, may designate one of their members as mayor pro tempore ... to serve in the absence or temporary disability of the mayor”; and Mayor Pro Tempore (“Mayor Pro Tem”).

4.3.1 Organizational Meeting

In December preceding the biennial seating of the new Council, City Council shall schedule a study session for the purpose of discussing the City Council function and operation, role of the City Mayor and Mayor Pro Tem, expectations of the Council for the City Mayor and Mayor Pro Tem, selection process of the City Mayor and Mayor Pro Tem, and the organizational activities which typically occur at the first biennial meeting of the new Council in January. The study session may be a regular or special meeting of the City Council. Notice shall be given as required by law and, in addition, all new Councilmembers elected at the previous general election shall be given individual notice of the meeting and shall be invited to attend and to take the oath of office.

4.3.2 Selection of Mayor and Mayor Pro Tem.

Biennially at the first meeting of the new Council, typically the first meeting in January, or as otherwise established by law, the Council shall select from among its members a Mayor and Mayor Pro Tem, as required by RCW 35A.13.030 and 35A.13.035, in accordance with the following procedures. The office of Mayor shall be selected first, followed by selection for the office of Mayor Pro Tem. Nomination, selection, and appointment shall be conducted in an open public meeting, provided that recesses to executive session may be called in accordance with RCW Chapter 42.30.

4.3.3 Nominations/Nomination Process

Candidates for Mayor or Mayor Pro Tem shall be nominated by a member of the Council. Nominations shall require a second to place the nominee in contention for selection. Voting shall occur as set forth in Section 4.3.4 below. If the Council is unable to select a Mayor or Mayor Pro Tem (as the case may be) after five ballots, or if on any ballot containing only two candidates one of the candidates withdraws his/her name from consideration before the vote on said ballot, nominations shall be reopened. If nominations are reopened, candidates that did not receive at least one vote during any of the preceding ballots must be nominated as set forth above. Nominations shall be reopened after every fifth ballot thereafter as needed. Any nominated candidate may withdraw from the selection process at any time except during an ongoing vote.

4.3.4 Voting

At the close of nominations for the respective office, the Clerk shall place the names of all nominated candidates in random order on a written ballot, shall designate the ballot as “Round #1. Ballot #1,” and shall distribute the ballot to each Councilmember. The Council shall vote on the written ballot provided by the Clerk, each Councilmember casting one (1) vote for the candidate of his/her choosing (or writing “abstain” on the ballot). The ballot shall be signed by the Councilmember casting the vote and all ballots shall be collected by the Clerk and tabulated. The Clerk shall announce the names of each candidate, the number of votes received, and the Councilmembers voting for that candidate. If no candidate obtains at least four votes of the Council, the candidate(s) receiving the lowest number of votes shall be removed from the ballot, provided that at least two candidates shall move forward to the next ballot, and the Clerk shall prepare the next ballot, which shall contain the names of the remaining candidates and shall be designated as “Round #1, Ballot #2.” The Council shall vote on that ballot in the manner provided above. Ballot preparation and voting shall continue in that manner for five ballots or until one candidate receives at least four votes of the Council, whichever occurs first. If no candidate is elected after five ballots, nominations shall be reopened as set forth in Section 4.3.3 and voting shall continue as set forth above, the first ballot in the second round being designated “Round #2, Ballot #1.” This process shall continue until a candidate receives at least four votes of the Council. All ballots from all rounds shall be retained by the Clerk as part of the record and shall be available for public inspection at the close of the meeting.

4.3.5 Election and Oath of Office

The candidate first receiving at least four votes cast by the Council shall, by that act, be elected as the Mayor or Mayor Pro Tem (as the case may be) of the City of Mill Creek, Washington for the term prescribed by law. The newly elected Mayor or Mayor Pro Tem (as the case may be) shall take the oath of office and be seated immediately to serve thereafter in their respective office for the City of Mill Creek.

Meetings of the Council shall be presided over by the Mayor, if present, or otherwise by the Mayor Pro Tem if one has been appointed, or (in the absence of both of them) by a member of the Council selected by a majority of the Councilmembers at such meeting. Serving as Chair of the meeting shall not in any way abridge the right of the Chair to vote on matters coming before the Council at such meeting.

In the event of the extended excused absence, disability or resignation of a Councilmember, the remaining members by majority vote may appoint a Councilmember pro tempore to serve during the absence or disability.

4.4 Quorum

As provided under State law, all meetings of the Council, four Councilmembers shall constitute a quorum for the transaction of business. A lesser number may adjourn from time to time, provided that written notice of said adjournment is posted on the exterior Council Chamber doors per RCW 42.30.090.

4.5 Respect and Decorum

It is the duty of the Chair and Councilmembers to maintain dignity and respect for their offices, City staff and the public. While the Council is in session, the Councilmembers shall preserve civility, order and decorum. No member of the public shall, by conversation or otherwise, delay, disrupt or interrupt the proceedings of the Council, nor disparage any person while speaking. Councilmembers and the public shall obey the proper orders of the Chair of the meeting.

4.5.1 Orderly Behavior and Civility in Remarks

Any person disrupting the business of the Council, either while addressing the Council or attending the proceedings, shall be asked to leave, or be removed from the meeting. Continued disruptions may result in a recess, forced removal or adjournment as described elsewhere in this manual or other resolutions.

4.5.2 Permission Required to Address the Council

Persons other than Councilmembers and Administration shall be permitted to address the Council only upon recognition and/or introduction by the Chair of the meeting.

4.5.3 Forms of Address

The Mayor or Mayor Pro Tem shall be addressed at a formal meeting where he or she is presiding as “Mayor” or “Mayor Pro Tem”.

4.6 Participation from a Remote Location

Requests, by a Councilmember, to participate remotely by telephonic, video or internet connection capacity shall be granted by the Council provided technical capability exists.

Examples of circumstances where remote participation would be permissible include illness, family events, accident, or unforeseen urgent out-of-town business. In the event of a public emergency (such as a pandemic) where City Hall is either closed or access is limited and the City is permitted or required to hold meetings in a virtual format, Councilmembers shall not be required to obtain advance permission to participate remotely.

4.7 Attendance; Excused Absences

A Councilmember may forfeit his/her office by failing to attend three consecutive regular meetings without being excused by the Council. Members of the Council may be so excused by complying with this section. The member shall contact the Mayor, Mayor Pro Tem, City Manager, or City Clerk prior to the meeting and state the reason for his/her inability to attend the meeting. During “Roll Call,” the Chair shall inform the Council of the member’s absence and state the reason for such absence. The Chair shall call for a motion to excuse the member. This motion shall be non-debatable. In such a case, the outcome of the vote shall determine whether the member shall be considered excused. (See RCW 35A.13.020 and RCW 35A.12.060.)

4.8 Filling Council Vacancies

If a vacancy occurs, the Council will follow the procedures provided in RCW 35A.13.020 and RCW 35A.12.050 in order to fill the vacancy with the most qualified person available until an election can be held. The Council will publish a notice of the vacancy, the procedure, and distribute the application form for soliciting candidates. The Council will prepare an application, which seeks relevant information and asks applicants to answer set questions 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 Councilmember.

4.9 Continuity of Government Act

In the event that the executive head of any city or town is unavailable by reason of enemy attack to exercise the powers and discharge the duties of the office, the provisions of RCW 42.14.050 shall apply. The same policy shall be applied in the case of a natural or man-made disaster.

Article 5: Citizen Committees, Boards and Commissions

5.1 Approval of Appointees

5.1.1 Citizens on Standing Governing Bodies

All members of standing citizen committees, citizen boards and citizen commissions which are, or which may hereafter be, required by State law or City ordinance or resolution, shall be appointed by the Council.

5.1.2 Citizens on Temporary Governing Bodies

Any citizen members of any other committees — such as Ad Hoc Committees, Citizen Advisory Committees or Steering Committees — shall be appointed and approved in the manner described in this Manual. With regard to any appointments that would normally be subject to Council approval, the Council may choose to waive confirmation in the instrument creating said committee or group.

5.1.3 Removal

Members of any committee, board or commission which has been appointed by the Council, may be removed without cause by a majority vote of the Council unless otherwise provided for in the Code, ordinance or resolution that authorized creation of the committee, board or commission.

5.2 Establishment and Review of Citizen Governing Bodies That Are Temporary

Council-established governing bodies that are intended to be temporary -- such as Ad Hoc Committees or Citizen Advisory Committees — shall be commissioned for a time certain and provided with a clear task description and “sunset” provision. Such temporary committees shall be subject to review whenever a new Council is seated following elections, so as to determine whether the committee and its functions continue to be appropriate and necessary.

Other special ad hoc committees and Council liaisons for a particular purpose may be appointed by the Council, for a time certain along with a clear task description and “sunset” provision.

Citizen Committees, Commissions and Boards, liaisons and citizen advisory or taskforce groups should be given an opportunity to make a recommendation, when appropriate, on proposed ordinances, resolutions and motions within their area of responsibility or interest, before action is taken by the Council. The appropriate spokesperson may present the recommendation(s) during discussion of that business item on a Council agenda.

To the extent that the City Attorney has determined that a citizen committee, commission or board is a “governing body” that is subject to the State open meetings laws, no such body shall take votes for final action outside of a noticed open public meeting.

5.3 Relations with Boards, Commissions and Citizen Advisory Groups

Boards, commissions and citizen advisory bodies of the City shall provide the City with minutes, or a summary report of all meetings. Communications from such boards, commissions and advisory bodies shall be acknowledged by the Council. Any member of the Council may also bring such communication to the Chair’s attention under the agenda item “Reports - Boards and Commissions.” Should any member of the Council determine that such communication be officially answered by the Council, the Chair shall place the matter on the agenda under New Business for the current meeting or any subsequent meeting.

Article 6: City Administration

6.1 City Manager

The City Manager is the chief administrative officer of the City. The City Manager is appointed by and directly accountable to the Council for the execution of the Council’s legislative policy directives, and for the administration and management of City departments. The powers and duties of the City Manager are defined by State law and a variety of City ordinances. Such duties may be expanded or clarified by job description, resolution or Council directive (motion). Balanced with the City Manager’s accountability to the Council for policy execution is the need for the Council to allow the City Manager freedom to perform those duties and responsibilities in his/her day-to-day management. The City Manager makes appointments and removals of employees and may delegate such powers to department heads, provided, that nothing herein shall be construed to prohibit the Council, while in open session, from fully and freely discussing with the City Manager, anything pertaining to appointments and removals of City officers and employees and City affairs. (See RCW 35A.13.)

6.2 Role of the City Manager

The City Manager shall attend all meetings of the City Council, unless excused by the Chair or Council. The City Manager may recommend for adoption by the Council such measures as he/she may deem necessary or expedient, prepare and submit to the Council such reports or proposals as may be required by the body or as the City Manager deems advisable to submit; keep the Council fully advised as to the

business and finances of the City; and when appropriate, shall take part in the Council’s discussion on all matters concerning the welfare of the City. In the event that the City Manager is unable to attend a Council meeting, the City Manager shall appoint a key staff member to attend the meeting as the representative of City Administration.

During Council meetings, the Chair should rely on the City Manager to introduce the administrative participation on agenda items and should offer opportunity for comment or recommendation of the City Manager before final vote on important matters.

6.3 Informal Communications Encouraged

Members of the Council are encouraged to interact informally and casually with City staff for the purpose of gathering information, obtaining progress reports on policies and programs or providing information to staff relevant to their Council office. Such informal contacts can serve to promote better understanding of specific City functions and problems. However, Councilmembers should be careful, in such interaction, to avoid giving direction or advice to members of City staff, which may conflict with the City Manager’s directives. City staff should provide their supervisor with the same information shared with the Councilmember.

6.4 City Manager — Interference by Councilmembers

As provided by RCW 35A.13.120, neither the Council, nor any of its committees or members, shall direct the appointment of any person to, or his or her removal from, office by the City Manager or any of his or her subordinates. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the City Manager and neither the Council nor any committee or member thereof shall give orders to any subordinate of the City Manager, either publicly or privately. The provisions of this section do not prohibit the Council, while in open session, from fully and freely discussing with the City Manager anything pertaining to appointments and removals of city officers and employees and city affairs.

6.5 Complaints to Councilmembers

When performance complaints are made by citizens about staff actions or non-action directly to an individual Councilmember or in a Council or committee meeting, the Council or Councilmember should then refer the matter directly to the City Manager for review and/or action. The individual Councilmember or the Council may request to be informed by the Administration of the action or response made to the complainant.

6.6 Citizen Complaints or Service Requests - “Best Practice”

Although citizens’ direct access to elected officials is to be encouraged to help develop public policy, City Councilmembers should not develop a “personal intervention” pattern in minor calls for service or administrative appeals which may actually delay a timely customer service response. The preferred practice is to get the citizen into direct contact with the appropriate department or the City Manager, unless an unsatisfactory result has occurred.

6.7 City Clerk - Minutes - Public Information Access

The City Clerk shall adhere to the requirements of State law. The City Clerk shall keep minutes as required by law and shall perform such other duties in the meeting as may be required by the Council, Chair or City Manager. In the absence of the City Clerk, the City Clerk shall appoint a replacement to act as Clerk-of-the-Council. The Clerk-of-the-Council shall keep minutes which identify the general discussion of the issue and complete detail of the official action or consensus reached, if any. The City Clerk shall make an audio recording of the proceedings of all public hearings, regular business meetings,

study sessions and workshops, and quasi-judicial proceedings. The Clerk shall keep, and make available, an agenda and date for each audio recording, which will facilitate location of the recorded proceedings. The audio recordings shall be posted publicly on the City website.

6.8 Role of the City Attorney

The City Attorney's ultimate client is the City itself — a municipal corporation. The City Attorney's relationship to the local government is similar in a number of respects to that of an attorney who represents a corporation. In that capacity, the City Attorney provides legal advice to the City Council, the City Manager, the Department Directors, and City staff.

The City Attorney may represent the City in actions brought by or against the City or against City officials in their official capacity. However, other attorneys may be hired to handle specific cases because of the nature of the case, because the City Attorney has a conflict or other reason, he or she cannot become involved, or due to limited resources of the City Attorney's office. In rare cases, the City Attorney may have a conflict and not be in a position to advise both the City Council and the City Manager.

The City Manager cannot prohibit the Council from having access to the City Attorney's advice. For reasons of efficiency or cost effectiveness, the City Manager may decide that certain legal questions should be channeled to the City Attorney through the City Manager, to ensure that questions are clearly worded and communications back to Council are consistent.

The Council can determine as a policy matter whether the City shall obtain legal advice from an on-staff City Attorney or by reliance on a law firm, but the Council may not direct the appointment of an individual to the position of City Attorney — that being the role of the City Manager.

City officials, including elected officials, may be indemnified by the City (or by insurance purchased by the City) for actions taken by an official within the scope of his or her duties. An official should therefore take care to act within the scope of his or her duties, and not cause City or personal liability by virtue of individual actions taken in the absence of legal advice.

6.8.1 Process for Officials to Question the Legality of City Actions

An unfounded assertion by a City official that the City is acting in violation of law can cause undue risk and liability to the city and may therefore constitute a breach of that official's duty to the City. Therefore, the recommended practice is that the following steps shall be followed if a City official questions the lawfulness of the conduct (or proposed conduct) of the City, or of any of its officials or staff.

1. Consult the City Attorney and fully describe the facts and issues which raise a question of illegality.
2. If the advice of the City Attorney does not resolve the concern, consult the City Manager.
3. If steps "1" and "2" do not resolve the concern, the official may request an executive session of the full Council if the matter rises to the level of presenting a risk of litigation.
4. Prior to completing steps "1" through "3", it is a violation of the Official's duty to the City to assert in public the opinion that the City is in violation of law.

6.9 City Staff — Attendance at Meetings

Attendance at meetings by City staff shall be at the discretion of the City Manager. It is the intent of the Council that the City Manager schedule adequate administrative support for the business at hand but also to protect the productive capability of department heads. When sound system or other monitoring capabilities exist, the City Manager may allow personnel to utilize time in their offices or other areas while waiting for the item of business for which appearance before the Council is required.

6.10 Administrative Presentations and Briefings

In order to enhance public understanding of complex issues being presented, City Administration is encouraged to include the use of visual communication tools whenever possible, such as:

- PowerPoint presentations;
- Flow charts or box diagrams to illustrate complex organizations, sequences or systems;
- Bullet point or summary handouts for the public and the press, when appropriate;
- Video clips or the internet to show actual situations or settings;
- Large maps to help pinpoint specific locations or parcels;
- Use of color to highlight important elements;
- White board for illustration; and/or
- Configuring the room/displays to assist the public understanding the issues.

Article 7: Preparation for Council Meetings

7.1 Council Meeting Agendas

The City Manager or the City Manager's designee shall confer with the Mayor and the Mayor Pro Tem in setting the agenda for each meeting. The proposed agenda and all agenda materials shall be posted on the City website at least 24-hours prior to the Council meeting and shall be subject to the notice provisions in the City Code.

7.1.1 Tentative Council Meeting Agenda

The City Clerk shall include in each agenda packet a "Tentative Council Meeting Agenda" list to advise Councilmembers and the public on topics that may come before the Council in future meetings.

7.1.2 Proposed New Initiatives

"Proposed New Initiatives" shall be a standing agenda item during which Councilmembers may propose a specific topic to include for consideration on a future Council agenda. Councilmembers are encouraged to discuss the proposed topic in advance with the Mayor, Mayor Pro Tem and the City Manager. If a majority of Councilmembers support including the topic on a future council meeting agenda, the City Manager will confer with staff, the Mayor and Mayor Pro Tem in scheduling the topic on a future meeting agenda.

7.1.3 Proclamations

Proclamations are generally broad statements recognizing the achievement of individuals or groups in the community, have relevance to a large number of residents in the City, or forward positive messages.

The following guidelines and requirements apply to requests for consideration of proclamations:

1. At the beginning of each year, the City Clerk shall provide Council with a list of proclamations that the City routinely issues annually. Councilmembers, persons or organizations making a request for a proclamation must submit a copy of the proposed proclamation to the City Clerk at least two weeks in advance of the requested Council meeting.
2. The City Clerk will distribute the requested proclamation to the Mayor and the City Manager who will determine if the proposed proclamation meets the intent of these guidelines. When there is uncertainty in making this determination, the Mayor may choose to consult with the City Council for its guidance.
3. The Council retains the right to limit the number of proclamations at a Council meeting.
4. The City retains the right to decide if the proclamation will or will not be issued.
5. Once approved, the proclamation will be included on the appropriate Council agenda.
6. If not approved, the applicant will be notified of the decision and the reason(s) for the decision.

7.2 Consent Agenda

The City Clerk or City Manager, or Council, may place matters on the consent agenda which:

- have been previously discussed by the Council; or
- based on the information delivered to members of the Council by Administration, can be reviewed by a Councilmember without further explanation;
- are so routine, technical or “housekeeping” in nature, that passage without discussion is likely; or
- are otherwise deemed in the best interest of the City.

7.3 Study Session Procedure

During a Council Study Session or Workshop, the discussion leader introduced by the Chair should:

- Introduce the subject and give background information;
- Identify the discussion goal;
- Keep the discussion focused toward the goal; and
- Recommend appropriate action to the Council.

The Chair shall retain the option of assuming the function of the discussion leader at any time in order to keep the discussion properly focused. The City Clerk shall keep notes of the discussion subjects with special attention to Council consensus or administrative direction which may need more formal action in a later meeting (i.e. agenda, future budget changes, etc.).

7.4 Process for Preparing Legislation or Policies for Adoption

7.4.1 Draft Documents

Prior to consideration or final passage of all Ordinances, Resolutions or pre-written Motions, draft documents or proposals shall be designated as “proposed”.

7.4.2 Preparation of Ordinances and Resolutions

The procedures for ordinances and resolutions are as follows:

- (a) **Proposing an Ordinance or Resolution**
Following the procedures set forth in Section 7.1, a Councilmember may request of the Council to study the wisdom of enacting an ordinance/resolution. The Council then may assign the development of the proposed ordinance/resolution to the staff, board or commission for consideration. Staff, board or commission shall report its findings to the Council. The City Manager, the City Attorney, or any of the citizen boards or commissions also may propose that Council consider an ordinance or resolution.
- (b) **Ordinance and Resolution Review**
Council will discuss the merits of the proposed ordinance/resolution in open session. Council shall decide whether to amend the ordinance/resolution, direct staff to further review the ordinance/resolution, or approve placing the ordinance/resolution in the business session of the meeting for enactment as an enforceable city law or policy.
- (c) **Repealer**
Any ordinance repealing any portion of the Municipal Code shall also repeal the respective portions of the original ordinance(s). Ordinances repealing earlier ordinances shall not apply to acts, incidents, transactions or decisions occurring before such repeal.

7.5 Council Packets

Councilmembers shall access council agenda packets electronically. A printed copy of the agenda packet shall be made available to any Councilmember upon request to the City Clerk.

Article 8: Rules of Order for Council Meetings

8.1 Parliamentary Procedure

Council meetings are conducted under the current edition of Roberts Rules of Order (Newly Revised (RRO) which are incorporated by reference. MRSC has prepared a useful tutorial *titled Parliamentary Procedure: A Brief Guide to Robert’s Rules of Order* and is posted on its website. The Mayor as Chair shall rule on all matters of order subject to the process of appeal from the decision of the chair by a motion moved, seconded and carried by a majority of the Council. The Chair at his or her discretion may call on the Mayor Pro Tem to temporarily assume the chair to enable the Mayor to make a motion.

8.2 Motions and Discussion

Affirmative motions are preferred to prevent “approval by default” of a failed negative motion. All items of business placed before the Council that require the expenditure of funds or resources and changes in land use shall be in the form of an affirmative motion.

8.2.1 Motions.

No motion shall be entertained or debated until seconded and announced by the Chair. The motion shall be recorded and, if requested by a Councilmember, it shall be read by the City Clerk before it is debated or voted on. A motion that has been seconded cannot be withdrawn before action is taken without the consent of the Council.

8.2.2 Amendments to a Motion.

An amendment must be related to the main motion and may not be written in a way that would defeat the main motion. Amendments require a second. Only two amendments may be on the floor at a time. Amendments are voted on in the reverse order in which they are made.

8.2.3 Motion to Close Debate.

A motion to close debate (sometimes referred to as either “calling for the previous question” or “call the question”), requires a second, is not debatable and requires a two-thirds majority vote.

8.3 Voting

The votes during all meetings of the Council shall be transacted as follows:

- Council votes will be taken by voice. Any member may demand a roll call vote before or after any action is taken. The demand for a roll call vote does not require a second. Roll calls may be conducted by councilmembers raising their hands in support or in opposition to the motion or, alternatively by requesting the City Clerk to call the names of each Councilmember and to record each Councilmember’s vote. Written ballots will not be used except for the biennial election of the Mayor and Mayor Pro Tem under the procedures set forth in Article 4.
- When there is a tie vote, the motion fails, absent specially adopted rules of procedure.
- All Councilmembers present for a vote must vote or abstain. Any councilmember abstaining from voting, at the time of declaring their abstention, shall state the reason. A motion to reconsider must be made by a person who voted on the prevailing side of the principal motion and must be made at the same or the next succeeding regular meeting.

8.4 All Councilmembers have Equal Rights to be Heard but the Will of the Majority Must Prevail

All Councilmembers wishing to be recognized shall be given an opportunity to speak on any motion where debate is permitted. Any Councilmember shall have the right to express support or dissent from or protest, orally or in writing, against any Motion, Resolution or Ordinance of the Council and have the reason therefore entered or captured in the minutes.

8.5 Citizen Complaints and Suggestions to Council

When citizen complaints or suggestions, not on the agenda, are brought before the Council at a meeting, the Chair may, if circumstances warrant it, attempt to direct the citizen matter to an appropriate channel for resolution. In such a case, the Chair shall, in consultation with the City Manager, first determine whether the issue is legislative or administrative in nature and then:

- If legislative, the Chair may refer the matter to the Council or City Manager for consideration and report, as appropriate.
- If administrative, the Chair should refer the matter to the City Manager for consideration and response, as appropriate.

8.6 Prior Permission Required for Certain Elaborate Presentations

The Chair will determine the nature, length and format of any presentation. Presentations will not be allowed to disrupt the meeting or the public’s view. If special or technical accommodations are needed, advance permission and arrangements are needed.

8.7 Conduct of Council Meetings

The Chair may, during a Council meeting, rearrange items on the agenda to conduct the Council’s business more expeditiously. Business Meetings of the Council may generally include many or most of the following agenda elements, which need not occur in the order stated below:

Examples of meeting agenda elements include:

- **Executive Session**

The Council may hold an executive session at any time in accordance with RCW Chapter 42.30. No final action may be taken during an executive session. Councilmembers and others attending the executive session shall maintain the confidentiality of all information presented and discussions occurring in the executive session.

- **Summary Reports**

Short summary reports may be presented near the end of the meeting. Short summary reports may, for example, be presented by the Mayor, Mayor Pro Tem, Councilmembers, the City Manager, other City staff or the chair of a city board or commission.

- **Public Comment Period or Public Hearing**

The routine public comment period at a Meeting is conducted as described in Section 8.10 below. By contrast, a public hearing is governed by different rules of procedure than a public comment period, and may either be (a) a quasi-judicial matter, (b) an opportunity for public comments to be heard and recorded on a legislative matter, or (c) whenever the Council desires or directs a public hearing to be held. Special opportunities for public comment apply to a public hearing (see Section 8.11 below), and special rules and procedures apply to a quasi-judicial hearing (see Section 8.12 below).

- **Consent Agenda**

- **The proper Council motion on the consent agenda is as follows:**

“I move adoption of the consent agenda”. This motion shall have the effect of moving to adopt all items on the consent agenda. Any member of the Council shall have the right to remove (“pull”) any item from the consent agenda. Therefore, prior to the vote on the motion to adopt the consent agenda, the Chair shall inquire if any Councilmember wishes an item to be “pulled” from the consent agenda. If any matter is pulled, the Chair shall entertain discussion and a motion on any pulled item after the vote on the passage of the unpulled items of the consent agenda.

- **Proposed New Initiatives**

The purpose of such a discussion is to offer Councilmembers an opportunity to propose topics for future Council subject to the process described in Section 7.1.

- **New Business.**

The purpose of this section is to introduce items that have not previously appeared before the Council.

- **Old Business**

Updates on matters previously presented to the Council are included in this section of the Agenda.

8.8 Conduct of Study Sessions

Regular or Special Meetings of the Council, or portions thereof, may be designated as Study Sessions. The definition and the basic rules for Study Sessions are stated in Section 2.3.4, and Article 7.

A Study Session may consist of any or all of the following elements:

(a) **Public Comment Period**

In general, because a Study Session is more informal and more interactive than a Business Meeting, the Council may have greater latitude to seek public comment on a particular issue being discussed. Therefore, the Council may invite public comment and dialog from time to time during the Study Session. In general, public comment shall be sought solely or primarily on matters on the Study Session agenda.

(b) **Referral to Boards, Commissions or Other Public Process**

At a Study Session, the Council may choose to refer an issue to a City board, commission or a new Ad Hoc Committee or Steering Group, or schedule some other public process before the issue returns to a future agenda.

8.9 Workshops

The purpose of a Workshop (i.e., a single-topic Study Session) is to allow Councilmembers to do concentrated preliminary work with Administration or the public on a single subject (i.e., budget, complex legislation or reports, etc.). Workshops shall be in a less formal setting but shall not discourage public observation. Public comment is not normally allowed at Workshops although the Council may allow, or request, participation in the same manner as other Council Study Sessions.

8.10 Procedures for Public Comment at Council Meetings

8.10.1 In General

The City Council desires to allow a maximum opportunity for public comment at various public forums and meetings. Opportunities for public comment are provided at the beginning and at the end of every meeting. However, at a Regular Meeting, the business of the City must proceed in an orderly, timely manner, and in that setting, the open Public Comment period is generally limited in overall time on the agenda, and is further limited in the amount of time per speaker (3 minutes, or such lesser time determined by the Council if a large number of individuals wish to speak). At any time, the Council Chair may set such further limitations on the time available for

public comment as are necessary to progress through the agenda and/or to prevent disruption of other necessary business.

The City will utilize a sign-in procedure for public comments, but, if time permits, the Chair may also invite comments from individuals who failed to sign in. The Chair may require a member of the public to state their name, address, and the subject of their comments.

These rules are intended to promote an orderly system of holding a public meeting, to give persons opportunity to be heard and to create an environment in which no individuals are embarrassed or uncomfortable.

8.10.2 Subjects — Whether or Not on the Current Agenda

Public comments received during the public comment period may be on any public topic, whether or not on the agenda. A comment on the subject that is covered by a public hearing at that meeting must be made during the period of the public hearing. Comments about other items on the agenda may be made during the public comment period or, if approved by the Council, during the Council discussion or action on the agenda item.

8.10.3 Use of Microphones

Comments shall be made directly into the microphone, as it is necessary for the public record and for the audience to hear all proceedings. No comments shall be made from any other location.

8.10.4 Civility

Attendees at Council meetings shall conduct themselves with civility, deal courteously with all who participate in the proceedings, and recognize the authority of the Chair. There will be no demonstrations during, or at the conclusion of, any person's presentation. Disruptive behavior will be cause for removal from the Council chambers and/or City Hall.

8.10.5 Council May Overrule the Chair

Any ruling by the Chair relative to the conduct of the public comment period may be overruled by a vote of a majority of Councilmembers present.

8.11 Public Hearings — In General

8.11.1 Sign in Procedure

Prior to the start of the public hearing, the Chair may require that all persons wishing to be heard sign in with the Clerk, giving their names and addresses, the agenda item, and whether they wish to speak as proponent, opponent, or otherwise. Any person who fails to sign in shall not be permitted to speak until all those who signed in have done so. At any public hearing, persons who have signed in and wish to be heard shall be given an opportunity to be heard.

8.11.2 Time Limits

The Chair will establish speaker time limits and otherwise control presentations to avoid repetition in accordance with these rules. The Chair may change the order of speakers so that testimony is heard in the most logical groupings, (i.e., proponents, opponents, adjacent owners, other stakeholders, etc.).

8.11.3 Rules for Legislative Public Hearings.

Prior to any legislative public hearing, Council may adopt special rules governing the duration and time limits for public comment or testimony at the hearing.

8.12 Council Quasi-Judicial Hearings

Quasi-judicial hearings and actions of the Council are those proceedings which determine the legal rights, duties, or privileges of specific parties in a hearing or other contested case proceeding. Quasi-judicial actions or hearings do not include the hearings pertaining to legislative actions adopting, amending, or revising a general governmental policy or ordinance, or a comprehensive, or community plan or the adoption of area-wide zoning ordinances or the adoption of a zoning amendment that is of area-wide significance.

8.12.1 Appearance of Fairness Doctrine Applies to Quasi-Judicial Actions

If a proceeding is quasi-judicial, the “appearance of fairness doctrine” under Washington state law is generally applicable. See RCW 42.36.010 and Section 3 of this Manual. If a proceeding contains both legislative and adjudicative functions, it is recommended that the Council consult with the City Attorney.

8.12.2 Obligations of Councilmembers in Quasi-Judicial Proceeding

In the event of a quasi-judicial proceeding of the Council, a Councilmember should immediately disclose any interests that may appear to constitute a conflict of interest. Councilmembers should recognize that the Appearance of Fairness Doctrine does not require establishment of a conflict of interest, but whether there is an appearance of conflict of interest to the average person. ‘This may involve a Councilmember’s business associate, or a member of the Councilmember’s immediate family. It could involve ex parte communications (that is, communications with one party to the quasi-judicial matter without notice to or argument from the other party). Or it could involve ownership of property in the vicinity, business dealings with the proponents or opponents before or after the hearing, business dealings of the Councilmember’s employer with the proponents or opponents, announced predisposition, and the like. Prior to any quasi-judicial hearing, each Councilmember should give consideration to whether an actual or potential violation of the Appearance of Fairness Doctrine exists. If the answer is in the affirmative, no matter how remote, the Councilmember should consult with the City Attorney.

Anyone seeking to disqualify a Councilmember from participating in a decision on the basis of a violation of the Appearance of Fairness Doctrine must raise the challenge as soon as the basis for disqualification is known or made known, or reasonably should have been known or made known. Upon failure to do so, the Doctrine may not be relied upon to invalidate the decision. The party seeking to disqualify the Councilmember shall state, with specificity, the basis for disqualification.

In the case of the Council sitting as a quasi-judicial body, the Chair shall have authority to request a Councilmember to disclose and excuse him/herself on the basis of an Appearance of Fairness violation. Further, if a Councilmember believes that an Appearance of Fairness violation exists, such individual may move to request a Councilmember to excuse him/herself on the basis of an Appearance of Fairness violation. Any Councilmember may seek the opinion of the City Attorney on the matter or call for an executive session as permitted by law.

8.12.3 Avoid Ex Parte Communications with Quasi-Judicial Parties

During the pendency of any quasi-judicial proceeding, no Councilmember may engage in ex parte communications with proponents or opponents about the pending proceeding. In the event of an ex parte contact, the affected Councilmember should consult with the City Attorney and review the Appearance of Fairness Doctrine requirements for disclosure of such contact. Generally, the Appearance of Fairness Doctrine does not prohibit a Councilmember from discussing unrelated matters with their constituents.

Article 9: Use of This Manual and Its Rules

9.1 Purpose

This manual, and its governance policies and rules of procedure, are designed to provide guidance for the Council and City Administration. They are not to be considered restrictions or expansions of Council authority. These rules have been prepared from review of many statutes, ordinances, court cases and other sources but they are not intended to be an amendment or substitute for those statutes, ordinances, court decisions or other authority.

9.2 Use of Rules by Council

No action taken by a Councilmember or by the Council, which is not in compliance with these rules, but which is otherwise lawful, shall invalidate such Councilmember's or Council action or be deemed a violation of oath of office, misfeasance or malfeasance. No authority other than the Council may enforce these rules or rely on these rules. References to other documents or laws included herein does not signify the intent to incorporate such documents in their entirety. Failure of the Council to follow any of these rules shall be considered a Council decision to waive such rule. No notice of such waiver need be given.

9.3 Public Use or Reliance Not Intended

Because these rules are designed to assist the Councilmembers in the conduct of their duties and not to provide substantive rules affecting constituents, it is expressly stated that these rules do not constitute land use regulations, official controls, "appearance of fairness rules", public hearing rules or other substantive rules binding upon or to be used by or relied upon by members of the public. These rules do not amend statutory or other regulatory (such as ordinance) requirements.

9.4 Amendments or Suspension of Portions of this Manual

Amendments of all or any part of these rules may be made by resolution or temporarily suspended by motion until changed, provided there is no conflict with any superior statute.

Exhibit A

STATEMENT OF VALUES/RULES OF CONDUCT

The Mill Creek City Council is dedicated to providing quality leadership that will protect, preserve, and enhance the quality of life for its citizens.

The City Council hopes to provide excellence in public service by respecting and protecting individual rights, acting with integrity, and fostering public trust. To improve the Council's effectiveness and performance, Councilmembers will focus on the following areas which incorporate the values of respect, honesty, and trust.

1. **Image:** Recognize that the City Council represents the image of the community in its actions; strive to maintain a professional image, high standards of conduct, and respect for others.
2. **Accountability:** Be accountable to others and to yourself; be effective stewards of the public trust and resources; and follow-through on commitments.
3. **Communication:** Communicate with our citizens, City staff and fellow Councilmembers in an open, clear, honest and constructive manner; be a good listener; clarify when needed; be receptive to feedback; and expect and demonstrate courtesy and respect in all interactions.
4. **Planning:** See the big picture; think and plan for the long-term; consider all needs in the jurisdiction; and help define a vision for the future.
5. **Decision-Making:** Become well informed on issues by reading background materials and seeking additional information if necessary; consider competing needs; consider alternative decisions; seek solutions that honor a variety of community values; and be willing to make difficult decisions.
6. **Teamwork:** Encourage a spirit of cooperation in dealing with the challenges facing our community; recognize the need to work together and support each other to achieve success; recognize different personalities and work styles; and remain flexible with each other to accomplish goals.
7. **Personal Development:** Take responsibility seriously and work hard; devote time and effort to personal and professional excellence.
8. **Ethics:** Uphold the public trust; be committed to the premise of good government and service to the public; and be dedicated to the highest ideals of honor and integrity in order to merit the respect and confidence of the public.

To implement these values, the City Council shall adopt the following rules of conduct to be practiced when representing the City:

1. Be prepared for meetings by familiarity with the materials and having notified City staff and/or the Mayor of concerns or problems in advance of the meeting, when possible.
2. The Mayor will open a matter for discussion. Councilmembers may debate the merits of the issues with the intent to inform fellow members of opinions and concerns in a concise manner. All Councilmembers shall listen to all points of view, be respectful and professional, and vote based on the objective information presented, including public input.

3. The study session will be utilized as a forum for studying complex issues, reviewing plans and priorities, and for informal communications between the Council and City staff.
4. The City Council represents the diversity of opinions and personalities within the community. Councilmembers should recognize and respect the principles of the majority rule.
5. The City Council shall manage through the City Manager; however, Councilmembers may communicate with City staff members with inquiries related to their respective departments.
6. During the time of Council discussion and public input, Councilmembers shall refrain from non-recognized conversation.

Exhibit B

Current List of Citizen Committees, Commissions and Boards

- **Civil Service Commission:** 3 members; Police Chief is staff liaison; administers Police Department advancements, demotions, suspensions, discharges and employment.
- **Design Review Board:** 7 members; Public Works Director or his/her designee is staff liaison; advises on commercial / mixed-use land use applications, makes recommendations based on design guidelines.
- **Planning Commission:** 7 members; Public Works Director or his/her designee is staff liaison; reviews applications for amendments to comprehensive plan, official zoning map and official zoning ordinance and other land use and city planning matters.
- **Parks and Recreation Board:** 7 members; Public Works Director or his/her designee is staff liaison; develop, design and operation of park and recreation programming and facilities with exception of final landscaping plan; facility use fees and procedures; capital improvement planning; concessions; and interlocal and cooperative use agreements regarding park and recreation activities.
- **Arts/Beautification Advisory Board:** 9 members; Public Works Director or his/her designee is staff liaison; work on special events and projects to enhance the aesthetics and beauty within the residential and business areas of the city; utilization of the municipal art fund; selection, acquisition and placement of artwork for the city.

The committees, commissions and boards listed above shall be subject to the following general guidelines, except to the extent stated to the contrary in the applicable resolution or ordinance.

Meetings

Committee meetings (when held) must be open to the public, including the media, unless discussing matters which would qualify for an executive session (under the state law defining eligible executive session issues that apply to the Council).

Council Liaison to Citizen Committees, Commissions and Boards

Liaisons shall be appointed by the Council for specific purposes and for a time certain (normally a term of one calendar year, which may repeat if Council so determines). Liaisons may attend assigned citizen group meetings and report to the Council on matters of public concern.

Liaison Procedures

Individual members of the Council may be assigned as liaisons whose duties involve keeping current with a group or activity by either attending meetings or conferring with members, and keeping Council informed. Liaisons may advocate Council actions on behalf of their assigned group or activity. Care must be taken to avoid an Appearance of Fairness Doctrine violation, or conflict of interest possibilities (i.e.: in the unusual case of a quasi-judicial proceeding). Liaisons' functions and duties may be further defined and/or directed by the Mayor or Mayor Pro Tern with concurrence of Council.

Appointment

Per MCMC 4.02.020 Notice of availability of a position on a board or commission shall be published in a local newspaper and/or posted at City Hall and/or on the City's website after the effective date of the availability or vacancy of the position. Interested persons may apply for the position by submitting a letter of interest. Positions may be filled from the list of applicants or the city may re-advertise the position. Members of a city board or commission shall be appointed by the City Council. Vacancies shall be filled in the same manner as initial appointments and members appointed to fill a vacancy shall serve for the duration of the unexpired term

Publication on Website

It shall be City policy to disclose names and terms of citizen boards, committees and commissions on the City website, with a description of the role and functioning of the body.