AGENDA
REGULAR MEETING OF THE CITY COUNCIL
480 S. ALLISON PARKWAY
CITY OF LAKEWOOD, COLORADO
HYBRID MEETING
AUGUST 12, 2024
7:00 PM

To watch the Council meeting live, please use either one of the following links:
City of Lakewood Website: Lakewood.org/CouncilVideos
Lakewood Speaks: Lakewoodspeaks.org

The City of Lakewood does not discriminate on the basis of race, age, national origin, color, creed, religion, sex, sexual orientation or disability in the provision of services. People with disabilities needing reasonable accommodation to attend or participate in a City service program, can call 303-987-7080 or TDD 303-987-7057. Please give notice as far in advance as possible so we can accommodate your request.

In accordance with City Council Policy 5.1(A), all virtual meeting participants are advised that technological issues, whether caused by the City's equipment or the user's equipment, shall not be grounds for canceling a public meeting.

How to Connect to Provide Public Comment: Online participants may post written comments of any length to LakewoodSpeaks.org, an online forum for public comments.

ITEM 1 – CALL TO ORDER

ITEM 2 – ROLL CALL

ITEM 3 – PLEDGE OF ALLEGIANCE

ITEM 4 – STATEMENT OF CONFLICT OF INTEREST

CONSENT AGENDA
ORDINANCES ON FIRST READING

ITEM 5 – RESOLUTION 2024-36 – ADOPTING THE 2024 REVISED CITY COUNCIL POLICIES AND PROCEDURES MANUAL

ITEM 6 – RESOLUTION 2024-37 – AUTHORIZING THE ASSIGNMENT TO THE HOUSING AUTHORITY OF THE CITY OF LAKEWOOD, COLORADO D/B/A METRO WEST HOUSING SOLUTIONS OF THE CITY OF LAKEWOOD'S 2024 PRIVATE ACTIVITY BOND VOLUME CAP ALLOCATION PURSUANT TO THE COLORADO PRIVATE ACTIVITY BOND CEILING ALLOCATION ACT

ITEM 7 – **ORDINANCE O-2024-20 –** AMENDING CHAPTER 14.06 OF TITLE 14 OF THE LAKEWOOD MUNICIPAL CODE AND ADOPTING BY REFERENCE THE 2023 NATIONAL ELECTRICAL CODE AS ADOPTED BY THE STATE OF COLORADO BY AND THROUGH THE STATE ELECTRICAL BOARD

ITEM 8 – **APPROVING MINUTES OF THE CITY COUNCIL MEETINGS**

A. CITY COUNCIL REGULAR MEETING MINUTES JUNE 24, 2024
B. CITY COUNCIL REGULAR MEETING MINUTES JULY 8, 2024

END OF CONSENT AGENDA

PUBLIC COMMENT ON CONSENT AGENDA

ITEMS NOT ON CONSENT AGENDA

ITEM 9 – **RESOLUTION 2024-38 –** TO SUBMIT TO A VOTE OF THE REGISTERED ELECTORS OF THE CITY OF LAKEWOOD AT THE STATE GENERAL ELECTION ON NOVEMBER 5, 2024, A BALLOT ISSUE FOR THE PURPOSE OF AUTHORIZING A VOTER-APPROVED REVENUE CHANGE FOR THE CITY OF LAKEWOOD

PUBLIC COMMENT ON ITEM 9

ITEM 10 – **RESOLUTION 2024-39 –** APPROVING PARTICIPATION BY THE CITY OF LAKEWOOD IN A COORDINATED ELECTION TO BE CONDUCTED ON NOVEMBER 5, 2024, BY THE JEFFERSON COUNTY CLERK AND RECORDER

PUBLIC COMMENT ON ITEM 10

ORDINANCES ON SECOND READING AND PUBLIC HEARINGS

ITEM 11 – **ORDINANCE O-2024-19 –** AMENDING TITLE 2, SECTION 2.02.020, OF THE LAKEWOOD MUNICIPAL CODE TO ADOPT BOB'S RULES OF PROCEDURE AS THE PROCEDURAL RULES OF THE CITY COUNCIL AND REVISE OTHER ANCILLARY PROVISIONS

PUBLIC COMMENT ON ITEM 11

ITEM 12 – GENERAL PUBLIC COMMENT

Anyone who would like to address the Council on any matter other than an agenda item will be given the opportunity. Speakers should limit their comments to three minutes.

ITEM 13 – GENERAL BUSINESS

A. CITY COUNCIL REQUEST

ITEM 14 – EXECUTIVE REPORT

A. CITY MANAGER

ITEM 15 – MAYOR AND CITY COUNCIL REPORTS

A. COUNCIL MEMBERS BY WARD

B. MAYOR

ITEM 16 – ADJOURNMENT

STAFF MEMO

DATE OF MEETING: AUGUST 12, 2024 / AGENDA ITEM NO. 5

To: Mayor and City Council

From: Alison McKenney Brown, City Attorney

Subject: **ADOPTING THE 2024 REVISED CITY COUNCIL POLICIES AND PROCEDURES**

SUMMARY STATEMENT: The City Council Ad Hoc Committee for Policies and Procedures completed its review of the City Council Policies and Procedures Manual and presented those proposed modifications to the City Council for review and determination of next steps at a Study Session meeting held on July 15, 2024. At that Study Session the City Council reviewed the proposed changes and, acting through consensus, directed modifications be made to the draft document. The Policies and Procedures Manual, including those requested changes, is presented for adoption by Resolution.

BACKGROUND INFORMATION: The City Council took action to review the Lakewood City Council Policies and Procedures Manual. They began by establishing the City Council Ad Hoc Committee for Policies and Procedures (Committee) on March 25, 2024. That Ad Hoc Committee comprised of: Mayor Pro Tem Jeslin Shahrezaei, Council Member Jacob LaBure and Council Member Sophia Mayott-Guerrero. The Ad Hoc Committee met April 16, April 29, and May 22, 2024, for up to four hours per evening to review every existing policy and procedure. The Committee then presented the draft of the revised Policies and Procedures Manual to the City Council at a study session held on July 15, 2024.

At that meeting, the City Council, acting by consensus, requested the following modifications be made to the draft as presented:

- Policy 1.2. Add language. "There is no limitation upon the number of terms a member of the City Council may serve as the Mayor Pro Tem."
- Policy 2.1. Revise to incorporate the Finance Director's corrections to subsection VIIII.
- Policy 3.1. Add language. "Outside consultants may be retained to support the performance evaluation process."
- Policy 3.1. Amend language to change April to May. "The City Council shall evaluate the performance of the City Manager annually and review each evaluation with the City Manager on or before May 1st of each year unless otherwise set forth within the Manager's employment agreement."
- Policy 4.1. Amend language to add a reference to the Budget and Audit Board as a City Council Committee.
- Policy 4.1. Amend language regarding the number of committees each council member serves upon. "City Council Members, in addition to their responsibilities in representing constituents through policymaking decisions for the City of Lakewood, are asked and expected to serve ~~on one or more committees per year~~ on City Council committees in a number generally equal to the number of committees served upon by all other members of the City Council."
- Policy 5.0. Add language to reference committee meetings of the City Council. "**Committee meetings** are defined as set forth in Policy 04.1. Meetings of committees of the City Council are open meetings. Full and timely notice of all City Council committee meetings shall be given to the public prior to a committee meeting. Committee meetings shall be recorded either by auditory or video means. Committee meetings are less formal than other meetings of the City Council and may follow less formal procedural rules at the discretion of the committee chairperson."

- Policy 5.3. Add language referencing quorums for committees. "Quorums for City Council committees or subcommittees shall be a majority of the membership of such committee."
- Policy 5.5. Amend language in subsection 4 regarding five minute limitation to match Policy 6.1. "City Council members should remember that they may each hold the floor for no longer than five minutes to ask questions or speak to a topic, then they must wait to request the floor again until after all other City Council members have been given the opportunity to hold the floor."
- Policy 5.7. Amend language to include a reference to "legislative modification." "Agenda items and staff direction are also created through study sessions, committees, and requests for council action which includes requests for legislative modification."
- Policy 5.8. Amend second bullet under the heading "General Public Comment" to remove sixty (60) minute limitation and replace with a reference to the 11:00 p.m. check-in. "Public Comment scheduled for after the business of the meeting is not specifically limited to any time frame but it may be limited by the 11:00 p.m. check-in during any regular or special meeting of the City Council."
- Policy 5.8. Add a third bullet under the heading "General Public Comment" to reference time, place and manner restrictions upon public comment so as to avoid allegations of refusing to take public comment due to the content of the public comment. "TIME, PLACE, and MANNER restrictions upon public comment. The City Council wants to provide an opportunity for all members of the community to speak to the City Council in the manner in which they are most comfortable. The City Council also recognizes that allowing general comment to continue significantly past 11:00 p.m. restricts the ability of most of the community at large to be present at or listen to that part of the City Council meeting that follows general public comment. Therefore, after 11:00 p.m. public speakers may be required to submit their public comments through the City’s online public comment forum rather than make a verbal presentation."
- Policy 5.16. No change. Discussed changing the process to bi-annual goal setting but determined that nothing in the current policy prevented adopting the previous years goals and then looking for new approaches to achieve those goals.
- Policy 6.1. Amending the fifth bullet under the heading "When Interacting with City Staff, City Council Members Shall" to add the word "Mayor." "Suggestions, policy issues, opinions and criticism should be kept between Council members and the Mayor, City Manager and/or City Attorney."
- Policy 8.2. Create a new policy addressing reimbursement for regular general expenses.
- Sample Agenda. Update to reflect a current standard agenda.
- Addendum 2. Update to reflect those IT policy references appropriate for this document.

A couple of notes regarding reading the attached revised Policy and Procedures Manual.
1. A redline (blueline) is included as an attachment to this item to illustrate the differences between the existing Policies and Procedures Manual and the draft revised Policies and Procedures Manual. This document includes all of the amendments detailed above, including the new Policy 8.2. The reline version also includes a number of typographical errors as it is difficult to see these within a redlined document.
2. A clean version of the draft revised Policies and Procedures Manual has been included. All redlining (indications of additions and deletions) has been removed. Typos have been corrected. Links have been placed throughout the document as requested.
3. If any scrivener's errors remain within the document they will be corrected when identified.

BUDGETARY IMPACTS: The only potential budgetary impact is in association with Policy 8.2, entitled "General Reimbursement for Expenses", which is a new policy developed to recognize that City Council members utilize their personal funds to pay for the expenses of serving on the City Council and allowing for some of these expenses to be reimbursed.

STAFF RECOMMENDATIONS: City staff generally does not have an opinion regarding the City Council’s

Policies and Procedures, although the City Attorney does support those changes that update the Policies and Procedures in accordance with current State law.

ALTERNATIVES: The City Council could adopt the draft Policies and Procedures as presented.
The City Council could adopt the draft Policies and Procedures with additional amendments and revisions.
The City Council could direct the draft Policies and Procedures be placed on a future meeting agenda for further review.
The City Council could choose not to take any further action regarding the update of the City Council Policies and Procedures Manual.

PUBLIC OUTREACH: This item has been promoted through the regular communication channels to be considered by the Lakewood City Council.

NEXT STEPS: None

ATTACHMENTS:

1. Resolution 2024-36
2. Lakewood City Council Policies and Procedures_Final with hyperlinks
3. Lakewood City Council Policies and Procedures_Redline revised 07-22-2024

REVIEWED BY:

Kathleen E. Hodgson, City Manager
Benjamin B. Goldstein, Deputy City Manager
Alison McKenney Brown, City Attorney

2024-36

A RESOLUTION

ADOPTING THE 2024 REVISED CITY COUNCIL POLICIES AND PROCEDURES MANUAL

WHEREAS, Chapter 2, Section 2.02.020 of the City of Lakewood Municipal Code requires the City Council to adopt a Policies and Procedures Manual;

WHEREAS, On March 25, 2024, the City Council established the City Council Ad Hoc Committee for Policies and Procedures (Committee) comprised of: Mayor Pro Tem Jeslin Shahrezaei, Council Member Jacob LaBure and Council Member Sophia Mayott-Guerrero;

WHEREAS, The Committee was charged with reviewing the existing City Council Policies and Procedures, drafting revisions to the Policies and Procedures Manual, and providing the City Council with a final recommendation for revisions as expeditiously as possible; and

WHEREAS, The Committee presented its draft of the revised Policies and Procedures Manual to the City Council at a study session held on July 15, 2024, where the City Council, acting by consensus, requested amendments be made to the draft and that it be placed on an upcoming regular meeting agenda for further action.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lakewood, Colorado, that:

SECTION 1. The City Council hereby adopts the 2024 Revised City Council Policies and Procedures Manual as attached hereto and incorporated herein.

SECTION 2. This Resolution shall become effective immediately upon adoption.

INTRODUCED, READ AND ADOPTED by a vote of ___ for and ___ against at a hybrid regular meeting of the City Council on August 12, 2024, at 7 o'clock p.m., at Lakewood City Hall, 480 South Allison Parkway, Lakewood, Colorado.

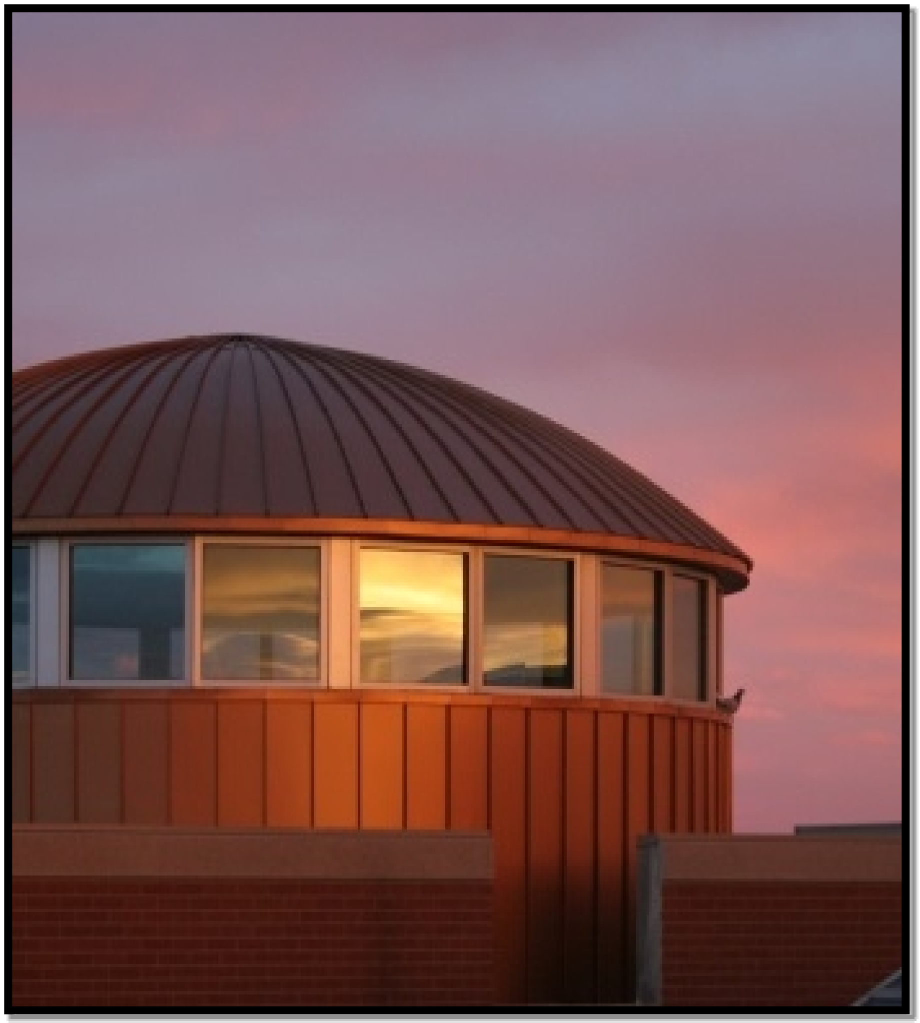
____
Wendi Strom, Mayor

ATTEST:

____
Jay Robb, City Clerk

APPROVED AS TO FORM:

____
Alison McKenney Brown, City Attorney



Council Policies and Procedures Manual
Adopted August 12, 2024

Table of Contents

GENERAL 01

POLICY 01.1 MAYOR AS PRESIDING OFFICER

POLICY

The mayor serves in a leadership role and presides over meetings of the City Council.

AUTHORITY

Lakewood Home Rule Charter, Section 2.3

By adoption of the Policy and Procedures Manual

PROCEDURE

The Mayor is elected directly by the voters. The Mayor presides over all meetings of the City Council, which are held in accordance with the formally adopted Rules of Parliamentary Procedure, except that state constitutional and statutory provisions and local ordinances, resolutions, and procedural rules shall govern in the event of a conflict. In addition, in applying the rules of procedure, the Mayor shall have some discretion and flexibility. The Mayor presides over meetings and has the same rights and responsibilities of a City Council member, including the ability to offer opinions at City Council meetings and to vote on issues. The Mayor has no veto power.

The Mayor is recognized as the head of the municipal government of the City for all ceremonial purposes, including performing ceremonial functions.

The Mayor has routine responsibilities that include signing legal instruments. The Mayor also assigns committee responsibilities to City Council members pursuant to Policy 04.1, approves travel for City Council Members, and serves as a member of the police pension board. The Mayor shall have such other powers as may be conferred upon the Mayor by the City Council so long as those powers are not in conflict with the provisions of the City Charter.

POLICY 01.2 MAYOR PRO TEM

POLICY

The officers of the Lakewood City Council shall be the Mayor and Mayor Pro Tem.

AUTHORITY

Lakewood Home Rule Charter, Section 2.3

Lakewood Home Rule Charter, Section 2.4

Lakewood Municipal Code, Section 1.27.070

By adoption of the Policy and Procedures Manual

PROCEDURE

One member of the City Council is chosen each year, at the first regular City Council meeting in January, to serve as Mayor Pro Tem. There is no limitation upon the number of terms a member of the City Council may serve as the Mayor Pro Tem.

The Mayor Pro Tem can be nominated by anyone, including self-nomination. Nominations are taken via email, as part of the email process used to determine Council committee assignments, or at any time thereafter, including from the floor the day of the vote.

The term of Mayor Pro Tem is one (1) year, and if the Mayor Pro Tem resigns from the position, the process to select a new Mayor Pro Tem to serve out the remainder of the term will be immediately initiated following the nomination process outlined above. The vote to select a Mayor Pro Tem will be by regular motion and be passed with the approval of a majority of those members present and voting. This decision as to what type of system to use to determine how elections are conducted and how the results are determined will be left to the City Council to decide just prior to the vote.

The primary responsibility of the Mayor Pro Tem is to serve as the Mayor when the Mayor is unavailable, including presiding over meetings and signing any documents that require a Mayoral signature.

In the event that both the Mayor and Mayor Pro Tem are unavailable for a City Council meeting, the Council shall elect a presiding officer for that meeting who shall have all authority as prescribed to the position of Mayor Pro Tem for the duration of such meeting, including signing documents approved during the meeting.

POLICY 01.3 REMOVAL FROM OFFICE

POLICY

The City's Home Rule Charter provides that the City Council shall have the power to remove, for cause, the Mayor and/or any City Council Member from office, as provided by ordinance.

AUTHORITY

Lakewood Home Rule Charter, Section 2.13

Lakewood Municipal Code, Section 2.05

PROCEDURE

The requirements and procedure for removal of the Mayor or of a Council Member shall be as set forth in Chapter 2.05 of the Lakewood Municipal Code. The City Council is encouraged to review and update the Lakewood Municipal Code, Chapter 2.05 every five years.

FINANCE 02

POLICY 02.1 BUDGET POLICY

POLICY

The City Council has established the following policies and procedures to guide in the preparation, review, and adoption of the annual City budget:

I. The annual draft budget submitted by the City Manager for City Council consideration will be balanced; i.e., revenues must match or exceed expenditures.

II. If special circumstances warrant the use of general fund reserves, the City Manager will submit a memorandum to the Council outlining those special circumstances, the amount requested, the impact on City services, and alternatives, if any, to the use of General Fund reserves.

III. The annual draft budget will include a five-year estimate for costs and revenues for any proposed new program.

IV. Any proposal for the City to acquire property will include a five-year estimate of maintenance and operation costs.

V. The City Council Budget and Audit Board will consist of three Council members and three citizen representatives who apply to and are recommended by the Council Screening Committee, with the concurrence of the City Council. Citizen Representatives are limited to two (2) three (3) year terms. The terms are staggered across three (3) years.

VI. All sections of the City's Charter and Municipal Code regarding the City's budget and budget process shall be interpreted to comply with Article X, Section 20 of the Colorado Constitution setting forth The Taxpayer's Bill of Rights which supersedes the City of Lakewood Charter and Municipal Code. Any provision of the Lakewood City Charter or Municipal Code that may only be interpreted in a manner which would violate a provision of TABOR cannot be applied.

VII. The annual draft budget shall reflect a minimum ten percent (10%) General Fund balance.

VIII. The Budget and Audit Board, as established by the City Council, and the Chief Financial Officer shall jointly select a certified public accounting firm to conduct the City's annual audit. The Chair of the Budget and Audit Board shall notify the City Council of its selection during any year in which a new certified public accounting firm is retained.

AUTHORITY

Resolution 2005-48

Lakewood Home Rule Charter, Section 3.3

Lakewood Municipal Code, Chapter 2.55

PROCEDURE

For additional procedures regarding the Budget and Audit Board please refer to Policy 04.1 regarding City Council Committee Assignments.

For additional procedures regarding the Budget and Audit Board please refer to Policy 04.2 regarding the Screening Committee's authority to appoint citizen members.

PERSONNEL 03

POLICY 03.1 CITY MANAGER PERFORMANCE REVIEW

POLICY

The City Council shall evaluate the performance of the City Manager annually and review each evaluation with the City Manager on or before May 1st of each year unless otherwise set forth within the City Manager's employment agreement.

AUTHORITY

Lakewood Home Rule Charter, Section 3.5

PROCEDURE

As the City Manager is the direct employee of the City Council it is in the City's Council's best interest to establish an employment relationship with the City Manager via employment contract, including setting general job performance standards.

The job performance of the City Manager is evaluated annually in accordance with the terms of the City Manager's contract, if any. The City Council will participate in a review of the City Manager and will be afforded the opportunity to provide comments and feedback on performance and process. When the information is compiled, the City Manager will be given a copy of the written review and will meet in Executive Session with the City Council to go over the review, discuss any points of concern, and develop performance measures for the subsequent year.

Outside consultants may be retained to support the performance evaluation process.

POLICY 03.2 CITY MANAGER EXPENDITURES

POLICY

The City Manager does not have an expense account but is authorized to make business expenditures in the course of performing the duties of the City Manager.

AUTHORITY

Lakewood Home Rule Charter, Section 3.3

By adoption of the Policy and Procedures Manual

PROCEDURE

The City Manager's expenditures will typically be made via a City-issued procurement card. The procurement card statement shall be reviewed by the Mayor on a monthly basis. The City Manager's expenses can be reviewed in the Lakewood ledger.

POLICY 03.3 CITY ATTORNEY REVIEW

POLICY

The City Attorney shall present an annual report of activities and legal services rendered by the City Attorney's office and any outside legal counsel. The City Council shall evaluate the performance of the City Attorney annually during an executive session held on or before May 1st. The City Council shall set annual performance measures for the City Attorney and shall review, modify as needed and approve a draft version of the City Attorney's proposed budget for the upcoming fiscal year.

AUTHORITY

Lakewood Home Rule Charter, Section 4.6

By adoption of the Policy and Procedures Manual

PROCEDURE

The Charter of the City of Lakewood identifies the City, and each of its component parts, as the client of the City Attorney and establishes the City Council as the supervisor of the City Attorney. As the City Attorney is the direct employee of the City Council it is in the City's Council's best interest to establish an employment relationship with the City Attorney via employment contract, including setting general job performance standards.

Whether or not the City Attorney operates in accordance with an employment contract, the City Council will annually review the City Attorney on or before the first day of May. Prior to the date of the City Attorney's performance review the City Attorney will provide the members of the City Council with a report showing how the performance standards were met, how the CAO budgeted dollars were spent, and any proposed updates to the following year's CAO departmental budget. The City Council will meet with the City Attorney in Executive Session. At the Executive Session the City Council will discuss any points of concern, develop/accept performance measures for the subsequent year, and review a draft of the CAO department budget for the following year. The City Council shall determine a merit increase for the City Attorney to be formally approved in an open session unless set forth within an employment contract.

COMMITTEES, BOARDS AND COMMISSIONS 04

POLICY 04.1 CITY COUNCIL COMMITTEE ASSIGNMENTS

POLICY

City Council Members, in addition to their responsibilities in representing constituents through policy making decisions for the City of Lakewood, are asked and expected to serve on City Council committees in a number generally equal to the number of committees served upon by all other members of the City Council.

City Council Committee appointments are made annually in the manner set forth in the procedure section below. Once a City Council Committee position has been assigned to a member of the City Council the position may be reassigned to a different member of the City Council during the term of appointment only if the Council Member holding that position requests the reassignment by notifying the Mayor in writing (i.e., letter or email) except pursuant to Policy 05.4.

City Council Committees

Committees arise from a number of sources and needs:

- Community organizations that have asked for City Council leadership.
- Intergovernmental in nature (e.g. Colorado Municipal League; Denver Regional Council of Governments, etc.).
- Required by law to have an elected official as a member (e.g., Head Start Policy Board).
- Others are groups providing specific guidance to staff or others (e.g., the Council Legislative Committee; and Budget and Audit Committee).
- Ad hoc committees, which are formed as needed by a vote of the City Council.

Staff liaisons for all committees will be designated by the City Manager.

Descriptions of each Committee, Commission and Board shall be maintained by the City Clerk's Office and shall be posted on the City's website.

City Council Committees as of the adoption of this manual, not including ad hoc, are:

City Council Committees

- Housing Policy Commission
- Legislative Committee
- Screening Committee
- Judges Salary Review Committee
- Ad Hoc Committees as needed
- Budget and Audit Board (joint City Council and citizen members)

<u>Employee Boards that include a member of the City Council</u>

- Employee Money Purchase Pension Plan
- Police Pension Board

<u>External Intergovernmental Boards (All Council)</u>

- Head Start Executive Committee Governing Board

  Note: This role is only applicable during a time period when the City of Lakewood is the provider of Head Start Services. The City Council may designate a smaller committee of the membership of the City Council to manage the regular responsibilities of this role.

<u>External Intergovernmental Boards (By Appointment)</u>

- Colorado Municipal League Policy Committee
- Denver Regional Council of Governments (DRCOG)
- Jefferson County Community Corrections Board
- Jefferson County Criminal Justice Committee
- Sister Cities Committee
- Police Seizure Fund Committee
- Urban Drainage and Flood Control District
- Jefferson County Transportation Advisory and Advocacy Group (JEFFTAAG)

AUTHORITY

Ad Hoc Committees
    Lakewood Home Rule Charter, Section 4.5
Boards and Commissions, General
    Lakewood Home Rule Charter, Section 4.5
    Lakewood Municipal Code Chapter 2.01
Budget and Audit Board
    Lakewood Municipal Code, Chapter 2.55
Design Review Commission
    Lakewood Municipal Code, Chapter 2.58
Employee Money Purchase Pension Plan
    The Employee Money Purchase Pension Plan enabling documents
Housing Policy Commission
    Lakewood Municipal Code, Chapter 2.57
Judicial Nominating Committee
    Lakewood Home Rule Charter, Section 5.3
Judicial Review Commission
    Lakewood Home Rule Charter, Section 5.9
    Lakewood Municipal Code, Chapter 2.21
Lakewood Advisory Commission (LAC)
    Lakewood Municipal Code, Chapter 2.56

Planning Commission

Lakewood Home Rule Charter, Section 9.1

Lakewood Municipal Code, Chapter 2.16.010

Police Retirement

Police Retirement and Disability Benefits

Screening Committee

City Council Policies and Procedures

PROCEDURE

The Mayor shall make recommendations for City Council committee assignments in January (or earlier) for the duration of the calendar year (or the following calendar year), and re-assignments at the time of need.

The City Council member committee appointment process begins when the Mayor sends a memo to all members of the City Council identifying the available committee assignments and asking each Council member to select those of most interest to them. The Mayor will attempt to match Council members with their individual interests, when possible, given any restrictions that may be in place.

The Mayor's recommendations are generally ratified by a single formal action of the City Council. Prior to ratification any Council Member can request a recommendation of appointment be removed from the primary list for separate consideration or may nominate themselves or a fellow councilor to fill a committee assignment in a manner different from that recommended by the Mayor.

POLICY 04.2 SCREENING COMMITTEE

POLICY

The Screening Committee is a permanently established committee of the City Council which shall consist of five (5) City Council members – one (1) from each of the five (5) Wards – and is responsible for making recommendations to the City Council regarding applicants for the City's Boards and Commissions that are comprised of Lakewood citizens. Screening Committee meetings shall be open to the public and posted in accordance with state and local open meeting requirements and shall be listed under Public Meetings notices on the City website. Appointments will be made by City Council Resolution.

Citizen Boards and Commissions for which the Screening Committee shall be responsible for interviewing applicants and making recommendations to the City Council include:

Budget and Audit Board	Planning Commission/Board of Adjustment
Board of Appeals	Victim Assistance Compensation Board
Design Review Commission	Historic Preservation Board
Judicial Review Commission	Judicial Review Commission
Lakewood Advisory Committee (LAC)	Noxious Weed Local Authority

The Screening Committee is further authorized to review any request from a board or commission chairperson regarding the removal of a member from such board or commission based upon excessive absences. To refer a request for removal to the Screening Committee the referring board or commission shall verify that such member has missed 30% of the meetings of such board or commission. The Screening Committee shall review the request including any statement submitted by the individual whose membership is in question. If, after reviewing all statements provided, the Screening Committee determines that such member is not currently able to fulfill the duties of such member's assignment then they shall make a recommendation to the City Council to remove such member from the assigned board or commission. Upon the screening committee's recommendation, the City Council may act to remove the board or commission member.

AUTHORITY

Ad Hoc Committees

Lakewood Home Rule Charter, Section 4.5

Board of Adjustment

Lakewood Municipal Code, Chapter 2.16

Lakewood Home Rule Charter, Section 9.1(e)

Boards and Commissions, General

Lakewood Home Rule Charter, Section 4.5

Lakewood Municipal Code Chapter 2.01

Budget and Audit Board

Lakewood Municipal Code, Chapter 2.55

Board of Appeals

Lakewood Municipal Code, Chapter 14.12

Design Review Commission

Lakewood Municipal Code, Chapter 2.58

Employee Money Purchase Pension Plan

The Employee Money Purchase Pension Plan enabling documents

Housing Policy Commission

Lakewood Municipal Code, Chapter 2.57

Judicial Nominating Committee

Lakewood Home Rule Charter, Section 5.3

Judicial Review Commission

Lakewood Home Rule Charter, Section 5.3

Lakewood Municipal Code, Chapter 2.21

Lakewood Advisory Commission (LAC)

Lakewood Municipal Code, Chapter 2.56

Planning Commission

Lakewood Home Rule Charter, Section 9.1

Lakewood Municipal Code, Section 2.16.010

Lakewood Municipal Code 17-1-7

Screening Committee

City Council Policies and Procedures

Victims Assistance Board

Lakewood Municipal Code 1.17.060

PROCEDURE

The Screening Committee shall be guided by the following rules:

I. Meetings.

- Committee meetings shall require a quorum of no less than three members.
- Staff will arrange Committee meetings and contact Committee members regarding scheduling.

II. Interviews.

- All openings upon any of the City's Boards and Commissions that are comprised of Lakewood citizens will be advertised.
- In the event that a single applicant applies for a vacancy, the deadline for applications will be extended one time to solicit additional applicants.
- The Boards and Commissions Coordinator will coordinate interviews of at least three (3) candidates, but the number of candidates to be interviewed shall be flexible and should be discussed with the chairperson prior to scheduling.
- The Committee will interview all applicants for boards and commissions, including incumbents applying for reappointment. Notwithstanding the foregoing, if an applicant was last interviewed within the previous six months for the same board or commission to which such applicant is currently applying the Screening Committee may agree to waive an interview. This waiver of interview provision shall not apply to applicants for the Planning Commission.

- The Committee shall conduct all applicant interviews in a fair and consistent manner by adhering to the committee-approved question list for each position.
- For Planning Commission applicant interviews, the Mayor and the Council member not on the screening committee and from the ward of the applicant will be invited to attend and may participate in the discussion following the interviews. However, the Mayor and the aforementioned Council member cannot participate in the interviews or vote.

POLICY 04.3 JUDICIAL SALARY REVIEW COMMITTEE

POLICY

The City Council shall establish the compensation of all judges of the Municipal Court by ordinance as required by the City's home rule charter.

AUTHORITY

Lakewood Home Rule Charter, Section 5.8(a)
Lakewood Municipal Code, Chapter 2.20.050

PROCEDURE

The Judges' Salary Review Committee will be formed each year following the policy and procedure outlined in Policy 04.1.

The City Manager or designee, in coordination with the Department of Human Resources, shall conduct a salary survey of municipal and county judges in the Denver metropolitan area. The survey results shall include a weighted average of municipal judges' salaries and other relevant salary information. The salary survey shall be provided to the Judges' Salary Review Committee by the end of the first week of April each year.

Upon completion of the salary survey and no later than April of each year, the City Manager or designee shall schedule a meeting among the Salary Committee and the Presiding Municipal Judge to discuss the salary survey and to exchange information about the Municipal Court and judges.

The Committee shall thereafter submit to the City Council a proposed Judicial Pay ordinance, prepared by the City Manager or designee, containing the Committee's recommendations for the salaries of Municipal Judges and the Presiding Municipal Judge. The ordinance shall include a recommended hourly rate for Associate Municipal Judges. This process should be completed by May of each year.

The City Council shall consider the Judicial Pay ordinance at the next available regular City Council meeting.

MEETINGS 05

POLICY 05.0 MEETINGS DEFINED/OPEN MEETINGS

POLICY

All meetings of the members of the City Council shall comply with the Colorado Open Meetings Law (OML), which broadly defines a "meeting" as "any kind of gathering convened to discuss public business, in person, by telephone, electronically, or by other means of communication." This definition may be updated to remain in compliance with the COML.

Regular meetings are defined as regularly scheduled meetings of the City Council held at City Hall at a day and at an hour established by ordinance. Business of the City Council may be conducted at any regularly scheduled meeting.

Special meetings are defined as meetings of the City Council which are set as needed pursuant to notification procedures established by ordinance. Business of the City Council may be conducted at any special meeting. A Special Meeting may be scheduled either by majority vote of the City Council at a Regular Meeting or by a "Notice of Special Meeting" signed by the Mayor and three Council members and delivered to all Council members at least twenty-four (24) hours in advance of the Special Meeting. If notice is delivered to City Council members, then they must sign a receipt for the Notice of Special Meeting which is to be returned to the City Clerk for record keeping purposes. Full and timely notice must be given to the public prior to a special meeting.

Emergency meetings are defined as meetings of the City Council which are needed to address an emergency situation of the City. An emergency meeting is different from a regular special meeting in that it may not be able to be noticed to the public twenty-four (24) hours in advance of the meeting. Limited business of the City Council may be conducted at an emergency meeting in accordance with the provisions of L.M.C. 2.02.050.

Study session meetings are defined as meetings of the City Council to provide an opportunity for the City Council to study a matter of the City. Full and timely notice must be given to the public prior to a study session. The purpose of a study session is no final decisions of the City Council may occur at a study session. Administrative decisions may be undertaken at a study session, including but not limited to, directing staff to place a matter on a future agenda of a regular or special meeting, setting a date for a future action, or seeking consensus on directing staff to undertake a future action.

Workshop meetings are defined as informal meetings of the City Council to meet a specific goal of the City Council. City Council retreats are one type of workshop meeting, but a workshop may be established in any format to meet the needs of the City Council including, but not limited to, site visitations within or outside the City. Full and timely notice must be given to the public prior to holding a workshop meeting. No public input is anticipated at workshop meetings. Minutes are not kept at workshop meetings due to the informal nature of the meeting. No formal action may be taken at a workshop meeting, but administrative decisions may be undertaken, including but not limited to, directing staff to place a matter on a future agenda of a regular or special meeting, setting a date for a future action, or seeking consensus on directing staff to undertake a future action. An audio recording of a workshop meeting shall be made. (See Policy 05.16 regarding the City Council's annual planning retreat workshop meeting.)

Committee meetings are defined as set forth in Policy 04.1. Meetings of committees of the City Council are open meetings. Full and timely notice of all City Council committee meetings shall be given to the public prior to a committee meeting. Committee meetings shall be recorded either by auditory or video means.

Committee meetings are less formal than other meetings of the City Council and may follow less formal procedural rules at the discretion of the committee chairperson.

See Addendum 1 of this Policy and Procedure Manual for a sample meeting schedule and order of business details.

AUTHORITY

Lakewood Home Rule Charter, Section 2.15

Lakewood Municipal Code, Chapter 2.02

C.R.S. 24-6-402(1)(b)

PROCEDURE

Based on the definition of "meeting" in the Colorado Open Meetings Law, virtually any time *three or more* Council members discuss public business, the discussion could be considered a meeting requiring notice to the public, regardless of whether the Council members are in the same room, talking by telephone, or communicating serially via email or other electronic medium.

The Colorado Supreme Court has ruled that "merely discussing matters of public importance" does not trigger the requirements of the OML; there must be a "demonstrated link" between the matter discussed and the City Council's policy-making powers, such as a rule, regulation, ordinance or other formal action.

POLICY 05.1 VIRTUAL/ELECTRONIC (REMOTE) MEETINGS

POLICY

A public meeting includes any kind of gathering convened to discuss public business, in person, by telephone, electronically, or by other means of communication. All public meetings of the City may be conducted by telephonic, electronic or hybrid means in accordance with this Policy. The term "Mayor" also includes the Mayor Pro Tem and/or the presiding officer conducting a public meeting. If the Mayor is participating in a meeting by electronic means and the Mayor Pro Tem is participating in person, the Mayor Pro Tem (or other designated chairperson who is physically present) shall preside over the meeting.

AUTHORITY

Lakewood Home Rule Charter, Section 2.15
C.R.S. 24-6-402(1)(b)
C.R.S. 24-6-401, et seq

PROCEDURE

Electronic (Remote) Participation.

Meetings of the City Council shall be primarily conducted in person at City Hall. However, individual members of the City Council may participate in meetings by telephone or electronically using a platform approved by the City when said Councilperson has reason to be away for either personal or health reasons and when **all** of the following conditions are met:

A. All members of the City Council, City staff and the public can hear one another clearly, can communicate with one another, and can hear or read all meeting information in a manner designed to provide maximum participation;

B. The member is in a physical location with good connectivity (telephone or internet) that is free from distractions to other meeting participants;

C. Members of the public can hear the public meeting, including all members participating remotely;

D. All votes are conducted in a manner that documents each member's vote; and

E. To the extent possible, full and timely notice is given to the public setting forth the time of the meeting and the fact that some members of the body may participate remotely.

I. Meeting Notices.

Meetings at which the members of the body are personally present, in whole or in part, which provide electronic means to allow for members of the City Council to participate remotely shall be known as "hybrid" meetings. Meeting notices shall advise the public when a public meeting is anticipated to be in a hybrid format, however, such notices shall also advise the public that unanticipated technological issues that prevent a meeting from being held in a hybrid format shall not be grounds for canceling a public meeting.

Arranging for Electronic Participation.

A Councilperson desiring to participate by telephonic or electronic means shall contact the City Clerk at least twenty-four hours (24) in advance of a public meeting, or as far in advance of the meeting as possible. Telephonic or electronic participation shall only occur using a telephonic or electronic platform approved by the City.

The Mayor is authorized to discontinue a Councilperson's participation in a meeting if the communication of the Councilperson is unclear to the meeting participants. The Mayor shall state for the record the reason for discontinuing a Councilperson's participation and the time of such discontinuance. The member may be readmitted later in the meeting if such technological issues are corrected. The Mayor shall state for the record the time at which such member was readmitted to the meeting.

Effect of Electronic Participation. A Councilperson who participates in a meeting by electronic means consistent with this Policy shall be considered "present" at the meeting for purposes of establishing a quorum and entitled to vote on matters coming before the City Council.

Executive Sessions. In the event that the City Council holds an executive session, participants may be authorized to attend via telephonic or electronic participation. A Councilperson participating in an executive session remotely shall: (a) have a secure telephone or electronic connection, and (b) certify that they are located within a controlled area to which no other person has access (typically indoors, within a closed room). Executive sessions for personnel matters shall not be open for electronic participation except with the approval of the employee who is the subject of the executive session in accordance with the Open Meetings Law.

Quasi-Judicial Hearings. A Council member may not actively participate in a quasi-judicial public hearing or vote upon the outcome of such quasi-judicial public hearing in recognition that virtual participation has inherent limitations, including limiting one's ability to fully evaluate a speaker's non-verbal language in assessing veracity or credibility, and observing nonverbal explanations (e.g., pointing at graphs and charts) during a speaker's presentation or testimony. A Council member who is not physically present at a quasi-judicial public hearing shall not be prohibited from monitoring/listening to the quasi-judicial public hearing through an electronic means.

V. Reasonable Accommodations.

The City Council may waive or modify provisions of this Policy for the benefit of any meeting participant or member of the public in accordance with the Americans with Disability Act in order to address a situation not otherwise addressed by this policy.

POLICY

All City Council meetings shall be open to the public and, with the exception of emergency meetings, public notice shall be provided in accordance with state and local open meeting requirements and shall be listed under Public Meetings notices on the City's website.

AUTHORITY

Lakewood Home Rule Charter, Section 2.15

C.R.S. 24-6-402(2)

Lakewood Municipal Code, Chapter 2.02

PROCEDURE

I. Public Meetings.

A. A "public meeting" occurs, and must be open to the public, whenever three or more City Council members convene in person, by telephone, electronically or by other means: (i) to discuss public business pursuant to the City Council's policy-making powers; or (ii) to contemplate taking formal action.

B. City Council Retreats. If a retreat or other form of workshop meeting is attended by three or more City Council members and either of the situations identified in "A" above occur, it is a meeting that must be open to the public.

C. City staff meetings are not subject to public meeting requirements.

D. Staff meetings attended by three or more City Council members may be public meetings and open to the public if, while at the staff meeting, the three or more City Council members: (i) discuss public business pursuant to the City Council's policy-making powers; or (ii) contemplate taking formal action.

II. Public Notice of City Council Meetings. City Council meetings shall be held only after full and timely notice to the public. The official posting place for all public notices is the bulletin board located in the atrium at Civic Center South, 480 S. Allison Pkwy., but all notices shall also be posted on the City's website. Notice of a public meeting shall be considered full and timely when posted no less than twenty-four (24) hours before the meeting.

POLICY 05.3 QUORUM

POLICY

A quorum of six (6) or more City Council members must be present at a properly convened meeting in order to conduct any business.

If, after lawfully convening a regular or special meeting of the City Council, less than six members of the City Council are present at the meeting and sitting in the space assigned to the City Council, the meeting is considered temporarily recessed. If after ten minutes six (6) members of the City Council fail to both be present at the site of the meeting and sit in the space assigned to them the City Council meeting shall be formally adjourned. The only action that a group of less than six (6) members of the City Council may take prior to adjournment is to set the date of the next meeting of the governing body.

Quorums for City Council committees or subcommittees shall be a majority of the membership of such committees.

AUTHORITY

Lakewood Home Rule Charter, Section 2.16

C.R.S. 24-6-402(2)

By adoption of the Policy and Procedures Manual.

PROCEDURE

A quorum consists of a simple majority; *i.e.*, a minimum of six (6) of the eleven (11) Council members must be present in order to hold a Regular or Special City Council Meeting. A quorum is the number of City Council members present at a formally convened meeting necessary for the City Council to conduct business.

Notwithstanding this quorum requirement, any discussion of public business, i.e. a matter that will be formally acted upon by the City Council, involving three or more members of the City Council, is considered a public meeting subject to the Open Meetings Law because the business of the governing body is being discussed in anticipation of the matter being presented to the City Council for action even if no formal action may be taken at the time of the discussion.

POLICY 05.4 ATTENDANCE

POLICY

Attendance at City Council Meetings. City Council members are expected to serve the public by attending all meetings of the full City Council for the entire length of the meeting regardless of the form of the meeting. Absences equal to or greater than 30%, during the calendar year may be cause for removal from the City Council in accordance with the City Home Rule Charter and Municipal Code. Briefly leaving a meeting for less than ten minutes shall not be considered an absence from the meeting but may be recorded in the minutes for purposes of establishing quorum.

Attendance at committee meetings. Failure to attend City Council committee meetings may result in the chair of such committee requesting that the Mayor visit with the absentee council member to assess their ability to uphold their responsibilities associated with such committee membership and determine solutions including removal from the committee. Alternatively, committee members may seek approval of any absences from the chair of such committee.

AUTHORITY

Lakewood Home Rule Charter, Section 2.15
Lakewood Home Rule Charter, Section 2.13

Lakewood Municipal Code, Chapter 2.05

By adoption of the Policy and Procedures Manual

PROCEDURE

Attendance at meetings other than regular or special meetings, study sessions, workshops or the City Council member's assigned committee meetings, is at the discretion of the individual City Council member.

Notification of an absence should be made by email to the Mayor or Committee Chair and the City Clerk prior to the meeting. The City Clerk shall notify the City Council by email prior to the meeting of any absences from meetings of the full governing body of which the Clerk has been informed.

POLICY 05.5 PREPARATION FOR CITY COUNCIL MEETINGS

POLICY

The position of a City Council member is a demanding one. It is the overall responsibility of each member of the City Council to prepare for meetings and engage in relevant community conversations outside of scheduled meetings. Specific preparation for each meeting of the City Council is critical to assure the most effective meeting of the governing body.

1. City Council members should, if possible, avoid surprising their colleagues or staff. To the maximum extent possible, City Council members should advise the Mayor and the City Manager in advance of any substantive issues, questions, or changes they intend to bring up at the public meeting which would likely require staff research and response. This refers to issues and questions that the staff would not normally anticipate or have researched for that particular meeting.
2. City Council members should advise the Mayor and the City Manager in advance of pulling items from the consent calendar. This will allow the Mayor and City Manager to prepare staff for the additional steps necessary to address such item.
3. City Council members should be prepared for City Council and committee meetings, which includes having read all agendas and supporting documentation or presentations prior to the meeting.
4. City Council members should remember that they may each hold the floor for no longer than five minutes to ask questions or speak to a topic, then they must wait to request the floor again until after all other City Council members have been given the opportunity to hold the floor.
5. To the extent feasible, City Council members should stay abreast of regional issues affecting neighboring cities, counties, and the operations of other districts or agencies.

AUTHORITY

Lakewood Home Rule Charter, Section 2.1

Lakewood Home Rule Charter, Section 2.10

Bob's Rules of Order

POLICY 05.6 EXECUTIVE SESSIONS

POLICY

Any regular or special City Council meeting may be recessed to an executive session in the manner set forth in C.R.S. 24-6-402(4).

No formal action may be taken in executive session. When a matter discussed in executive session is later discussed on the record at an open meeting, the record must indicate what policy considerations and motivations led to any final decision.

Whenever possible, the intention to call for an executive session, including the topic and statutory citation which authorizes such executive session, should be identified on the City Council agenda for the meeting during which the City Council seeks to recess into executive session. Notwithstanding the foregoing, executive sessions may be held even if not identified on the official agenda if a motion for executive session is approved by a vote two-thirds of those present.

Topics for executive sessions shall be limited to those set forth in C.R.S. 24-6-402(4) and the City's home rule charter.

AUTHORITY

Lakewood Home Rule Charter, Section 2.15

C.R.S. 24-6-402(2)

PROCEDURE

To recess into executive session, a City Council member must make a motion for an executive session and must announce the topic of discussion including (i) the specific citation to the Open Meetings Law authorizing the topic for executive session; and (ii) identification of the particular matter to be discussed in as much detail as possible without compromising the purpose for which the executive session is authorized. The City Council shall then vote on whether to hold the executive session as described. The motion is approved upon an affirmative vote of two-thirds of the City Council members present. The minutes of the regular or special meeting must reflect the topic of discussion at the executive session.

POLICY 05.7 AGENDA SETTING

POLICY

The agenda setting process is an ongoing, combined effort by the City Council and the City Manager (or designees).

The City Council sets the legislative priorities for the year during the annual planning retreat and those legislative priorities are the basis of the City staff's work assignments, and City Council initiatives and agenda items. Agenda items and staff direction are also created through study sessions, committees, and requests for council action which includes requests for legislative modification.

The Mayor and Mayor Pro-Tem, under direction of the City Council and with the advice of the City Manager, manage the City Council agenda and calendar to ensure that the annual planning retreat goals are met, and new agenda items are accommodated.

The Mayor and/or Mayor Pro-Tem should advise the Council regularly on the progress of the agenda setting.

AUTHORITY

By adoption of the Policy and Procedures Manual

PROCEDURE

City Council members may submit requests for agenda items during the annual planning retreat and throughout the year by filling out a request form and submitting such to the City Manager (or designee). At a minimum, the request must include the requestor's name, a description of the request, the goal or objective that the request aims to fulfill, and a self-assessment as to the priority level of such request. Requests submitted outside of the annual planning retreat should also be self-assessed as to whether such request should supersede resources otherwise directed to the previously adopted policy priorities.

Requests submitted outside of the annual planning retreat are added to the next "in progress" regular City Council meeting agenda/meeting packet. The request will be listed on the agenda under General Business for consideration by the City Council as a whole. The timing of the submittal determines when the request will be reviewed by the City Council. Meeting agendas and packets must be posted to the City website ten (10) days prior to the meeting date, so requests will be placed upon the agenda of the next "in progress" regular meeting. An "in progress" meeting refers to the regular meeting agenda and packet that is in the development stage and is not yet finalized for posting.

New requests for agenda items that are approved by the City Council for future action will either be prioritized by action of the City Council or will be evaluated and prioritized by administrative staff against the backlog of open, prioritized items.

The City Council priorities dashboard may be updated to include unprioritized "parking lot" items that have been approved for such addition by the City Council as priorities. General items that are outside of the City Council's approved list of priorities will be prioritized by the City Manager in relation to available City resources.

POLICY 05.8 PROCEDURAL RULES/PUBLIC COMMENT/ LEGISLATIVE PUBLIC HEARINGS

POLICY

Procedural Rules.

The Mayor may, at their discretion, seek to modify procedural rules and/or guidelines for a particular hearing or meeting, as long as the modification is within the guidelines of the adopted rules of Parliamentary Procedure and isn't in conflict with any constitutional provisions, law, statute, or ordinance or resolution heretofore or hereafter adopted. Members of the City Council who wish to make electronic presentations, such as PowerPoint slides or videos, regarding any topic on the agenda must submit such presentations to the Mayor by noon on the day of the meeting so that the Mayor will be aware of how much time to allot to each agenda item.

It is the Mayor's responsibility to uphold the decorum of the meeting which includes prohibiting actions which are disruptive to the conduct of the business of the meeting.

Check-in.

The City Council will conduct a check-in at 11:00 p.m. and every hour thereafter to evaluate whether it is appropriate to continue the meeting. The City Council may extend the time for public comment during a check-in or may determine that due to the lateness of the hour modifications to the meeting may be appropriate. Modifications may include moving remaining individuals wishing to make public comment to the City's online comment portal, recessing the meeting to another date certain or adjourning the meeting.

City Council Meetings include both closed and limited public forums.

City Council meetings are generally closed public forums (i.e. limited to the work of the City Council) unless the agenda specifically establishes a limited public forum by designating an opportunity for members of the public to participate in a City Council meeting. Limited public forums will be recognized for both Public Hearings and for General Public Comment. The time, place and manner of how limited public forums will be carried out shall be either as set forth within this policy or as otherwise indicated upon the face of the meeting agenda or by the Mayor. Speakers should note that public comment opportunities are provided for the City Council to **receive** public comment. Public comment is not an opportunity for the members of the City Council to engage with the public.

Nothing within this policy shall be construed to require the City Council to subject itself and its citizens to online commenters taking advantage of an online opportunity to violate any limited public forum established by the City Council. Limited public forums allow some restrictions on speech that would be unconstitutional in a designated general public forum. The goal of public comment is to create a welcoming, safe and inclusive community for all that encourages members of the community to share any concerns with the City of a local government nature and for the public to influence and provide community expertise on items appearing on the agenda and upon any other community issues.

Public Hearings.

Administrative Public Hearings.
The primary role of the City Council is legislative which involves the development and implementation of laws and policies that apply citywide. Examples of legislative action include the adoption of new codes or the approval of contracts. A public hearing is held prior to the City Council taking final action on any legislative item (administrative public hearing). During an administrative public hearing anyone can comment on the merits of the proposed law/action. The "legislators", i.e. the members of the City Council, may also obtain input from other sources, including resident testimony received in person, by phone or by email. City Council Members may consider any information received, as well as their own personal beliefs, in deciding whether to approve the legislative action.

Testimony/commentary from the Public at Administrative Public Hearings.
A public hearing shall be scheduled for every item shown on the agenda upon which the City Council will take formal and final action by Ordinance or Resolution. Members of the public may present up to three minutes of testimony on the item. Resolutions consolidated upon the Consent Agenda for final action may be testified upon by the public during the public hearing to accept testimony on consent agenda items. Ordinances placed on the consent agenda for notification purposes are not available for public testimony. The time for speakers to speak regarding any item on the agenda may be reduced from three minutes to less than three minutes for items with an unusually large public interest to allow for all interested parties to have an opportunity to provide testimony.

Online Viewers at Public Hearings.
Online viewers of regular or special City Council meetings will be given the opportunity to provide verbal testimony at such public hearings upon the topic set forth upon the face of the agenda if they register in advance with the City Clerk prior to noon of the day of the meeting. Any departure from the specific topic of the public hearing is outside the scope of the public hearing and not permissible. The Mayor may act immediately to end testimony that is outside the scope of the limited public forum concerning the agenda item. If the Mayor ends any virtual commentary that has gone outside the scope of the public hearing the Mayor will make a brief statement for the record explaining why the speaker's commentary was impermissible. The advance registration system for online public comment/testimony will be established by the City Clerk's Office.

Time limits at Public Hearings for HOA representatives and Registered Neighborhood Associations.
A formally selected representative of a registered neighborhood association or neighborhood organization who wishes to speak in-person shall be allowed to speak for up to ten minutes at a public hearing regarding a matter on the agenda impacting such neighborhood association.

"Pooling" agreements.
In-person speakers may use "pooling" of time to add to the length of their comment period for public hearings. To pool time, so as to be granted up to ten minutes of speaking time, a speaker must present the names of at least three individuals who are present in the audience when the speaker is speaking and who wish to yield their three minutes to the speaker. All supplemental three people must be present when the speaker is called to speak. At any time before the speaker is called to approach the podium, an individual who yielded such person's time to the speaker may reclaim the time from the speaker and may preserve it for later in the meeting. Such action shall terminate the pooling agreement.

Virtual attendees shall not be afforded the opportunity to pool time as there is no ability to verify that other individuals are present and seeking to pool their speaking time. Additionally, virtual attendees have the alternative of submitting a statement via the City's online comment portal which does not have a limitation on the length of comments submitted.

General Public Comment.

Public comment.

The City's agenda will provide an opportunity for general public comment (public comment) at which members of the public may present up to three minutes of commentary on any matter of a public nature. Public Comment will be scheduled on the agenda in a manner that best balances the needs of the City Council to hear from members of the community with the needs of the City Council to complete the business of the City established by the meeting agenda. The Public Comment period may be established as a single agenda item or may be split to allow for 1) some public comment earlier in the meeting, and 2) additional public comment to be heard later in the meeting. Speakers are only permitted to speak one time during public comment irrespective of whether public comment is divided into two places on the agenda.

Public Comments may be made in person at a regular meeting of the City Council or via an online forum for written public comment or through an established City telephone messaging system. Online viewers of City Council meetings will be directed to use the City's online written public comment portal or the telephone messaging system.

- Dividing Public Comment on the agenda shall include an initial period of public comment scheduled prior to the consent agenda. This initial period of public comment allows for up to ten total in-person speakers to provide their public comment earlier in the meeting and shall prioritize those with special needs when the City Clerk is made aware of such needs in advance of the meeting. There shall be no pooling of time. Speaking during this initial period of public comment requires signing up to speak with the City Clerk in advance of the meeting.
- Public Comment scheduled for after the business of the meeting is not specifically limited to any time frame, but it may be limited by the 11:00 p.m. check-in during any regular or special meeting of the City Council.
- TIME, PLACE, and MANNER restrictions upon public comment. The City Council wants to provide an opportunity for all members of the community to speak to the City Council in the manner in which they are most comfortable. The City Council also recognizes that allowing general comment to continue significantly past 11:00 p.m. restricts the ability of most of the community at large to be present at or listen to that part of the city council meeting that follows general public comment. Therefore, after 11:00 p.m. public speakers may be required to submit their public comments through the City's online public comment forum rather than make a verbal presentation.

Recordings of Public Comment shall be kept by the City Clerk's Office. Public comment that is provided in-person or through the City's verbal messaging system will not be transcribed (i.e. recorded verbatim) but will be summarized for the City's official record. Public comment that is received via the City's online public comment forum will be copied verbatim into the City's official record.

Presentation aides.

To conform to the Open Meeting law and Open Records Act no handouts or other reference items will be accepted by the City Council members during a City Council meeting. Any items to be shared with the City Council for reference at a City Council meeting must be provided to the City Clerk in advance of the meeting. Electronic presentations for use by members of the public during any public hearing or public comment period, such as PowerPoint slides or video, must be submitted to the City Clerk's office by noon the day of the meeting to assure that such items will conform to the technology available. Any items provided to the City

Clerk will be published for viewing both by the City Council and the public. Presentations at a study session must be related to the study session topic on the agenda.

AUTHORITY

Lakewood Municipal Code, Section 2.02.020(B)

PROCEDURE

In the event a hearing or meeting is anticipated to be particularly contentious or public participation at a hearing or meeting is expected to be extensive, or for other good cause, the Mayor, at the commencement of such hearing or meeting, may propose a procedural rule and/or guideline change.

A simple majority is required to change the order of the agenda at the request of a member of the City Council. Additionally, the Mayor is authorized to modify the agenda at the Mayor's discretion. The basis for making any modification to the agenda shall be stated for the record.

Policy

Motions.

Any City Council member may make or second a motion to approve, amend, table or continue any matter before the City Council in accordance with the adopted Rules of Parliamentary Procedure. To assure that the agenda is carried out in the most efficient manner possible, the Mayor Pro Tem will generally make the necessary motions regarding matters placed on the agenda for action.

General Business.

General business is an agenda item intended to allow members of the City Council to present an action item to the City Council for proposed future action.

Any member of the City Council may make a motion during general business to seek consensus from the body as a whole to schedule an item for future action or send the matter to be reviewed by an appropriate advisory body. No off-agenda legislative item may be introduced for final action by the City Council during general business. Administrative actions, including setting the date of a future meeting or scheduling a special meeting, may be finalized during general business.

Requests submitted as a Request for Council Action outside of the annual planning retreat handled are in accordance with Policy 05.7. Such matters will be placed on the appropriate agenda under General Business for consideration by the City Council as a whole. A Request for Council Action that is placed on the agenda may be forwarded to all members of the City Council in advance of a meeting to educate/inform the members of the City Council about the proposed action.

Members of the City Council and staff may participate in the discussion of an off-agenda item, or a matter submitted through the Council Action Request process and shall attempt to identify and request any additional support that will be needed to prepare the matter for further action.

AUTHORITY

By adoption of the Policy and Procedures Manual

PROCEDURE

Motions and seconds shall be made in accordance with the adopted Rules of Parliamentary Procedure.

POLICY 05.10 FIRST READING ORDINANCES

POLICY

All proposed ordinances shall be introduced only at a Regular, Special, or Emergency Meetings of the City Council.

Upon an affirmative vote of a majority of those members present, such proposed ordinance shall be ordered published in full and a day and time fixed for a public hearing at a subsequent regular, special, or emergency meeting of the City Council.

AUTHORITY

Lakewood Home Rule Charter, Section 7.4

PROCEDURE

"First reading" ordinances shall be introduced by reading the title of the ordinance. First reading ordinances shall be placed on the Consent Agenda for the limited purpose of approving such items for publication and scheduling such items for a second reading.

POLICY 05.11 SECOND READING ORDINANCES/OPTIONAL THIRD READING

POLICY

Second Reading. The second reading of each ordinance shall be at a Regular, Special or Emergency Meeting held not less than 10 days after publication of the ordinance after the first reading.

Action Upon an Ordinance. The standard action upon an agenda item shall follow that set forth in the adopted Rules of Procedure. Typically, the actions shall be as follows:

1. **Agenda Item "Opened"**. The Clerk reads the item into the agenda.
2. **Presentation**. Information relevant to the agenda item is presented.
3. **Public Hearing**. Members of the public are invited to provide testimony/commentary upon the item pursuant to the scope of a limited public forum.
4. **Discussion**. The members of the City Council ask questions of staff or other topic area experts to collect information needed to decide a possible course of action.
5. **Motion and second**. The Mayor Pro Tem, or another member of the body, states the motion. Another member of the body seconds the motion to indicate the governing body should act upon the item.
6. **Debate**. The members of the City Council engage in debate regarding the proposed action. Members may deliberate or express support or opposition to the motion. Debate may result in amendment, continuation, postponement, or a vote on the motion.
7. **Vote**. A vote is taken on the motion. If the motion fails, the Body may return to discussion and a potential new motion or may move on to the next agenda item.

Referendum Period. Upon approval by the City Council, publication by title, publication of amendments and signature by the Mayor:

- regular ordinances shall be subject to a thirty day referendum period before becoming effective;
- ordinances that zone, rezone, or change any zoned district shall be subject to a forty-five day referendum period before becoming effective;
- emergency ordinances established in accordance with Charter Section 7.4(b) shall take effect and be in force immediately, although approval must be by two-thirds of all members of the City Council.

Ordinances not subject to a Referendum Period. In accordance with Charter Section 13.2 (a) the following ordinances shall not be subject to a referendum period:

- any emergency ordinance;
- an ordinance fixing the rate of general property taxation for any year;
- an ordinance related to the issuance of securities;
- an ordinance adopting the budget;
- an ordinance making an appropriation for the ensuing fiscal year;
- an ordinance calling for a special election;
- an ordinance levying special assessments,
- an ordinance initiating improvement districts.

Optional Third Reading of Ordinance Procedure. Upon motion and approval by a majority of the City Council, any ordinance may be moved to a third reading following the public hearing. Adding a third reading is intended to provide an opportunity for the City Council to consider the implications of substantial amendments and to consider any public comment received at the second reading. If the public hearing is completed at a second hearing, then no further public hearing is required to be scheduled for such item if moved to a third reading unless directed by the City Council. If the public hearing is not completed before the end of the meeting where the ordinance is set for second reading, then it will be completed at the third reading before any action by the City Council. At the third reading, the City Council may take any lawful action, including but not limited to discussion, consideration, amendment, and voting upon the adoption of the ordinance.

Ordinance Amendment Process: Any member of the City Council may submit proposed amendments to any ordinance to the City Manager, or designee, for distribution to the City Council as a whole. Distribution is for the limited purpose of putting the members of the City Council on notice that an amendment will be proposed. Members of the City Council are encouraged to work with the City Attorney's Office to review proposed amendments in advance of distribution. Amendments may also be submitted verbally or written during the consideration of an ordinance in conformance with the adopted rules of procedure.

AUTHORITY

Lakewood Home Rule Charter, Section 7.4

Lakewood Home Rule Charter, Section 13.2

PROCEDURE

"Second reading" ordinances shall be introduced by reading the title of the ordinance.

After a public hearing held in accordance with the procedures therefore, the City Council may consider and vote upon adoption of the ordinance. Adoption requires an affirmative vote of a majority of City Council members present and voting, except that no ordinance shall be adopted with less than five affirmative votes of such a majority.

Emergency ordinances shall require a separate section setting forth the emergency nature of such ordinance and must be approved by two-thirds of all members of the City Council regardless of how many members of the City Council are present and voting. An ordinance presented as an emergency ordinance that receives the approval of a majority of the City Council members present but does not receive approval of at least eight members of the City Council shall be deemed adopted as a regular ordinance and not an emergency ordinance.

Upon adoption, the ordinance shall be published by title or may be published in full, except that if published only by title any amendment to such ordinance shall be included in the publication.

POLICY 05.12 RECORDING MEETINGS/MEETING MINUTES

POLICY

All Regular Meetings, Special Meetings, Study Sessions, and Workshops of the City Council shall be recorded. Video recording is required for Regular Meetings, Special Meetings and Study Sessions, while audio recordings shall be acceptable for Workshops, Retreats or other less formal meetings where no final action takes place. No recording shall be required for site visits of the City Council or other informal gatherings not equipped for recording.

In addition, a written record of each Regular Meeting, Special Meeting, and Study Session, in summary form (action minutes), shall be prepared by the City Clerk for City Council approval at a later Regular Meeting and shall serve as the official minutes of the meeting. All audio and video recordings will be permanently retained by the City Clerk.

Public testimony or public comments that are made verbally may be summarized into a document that is incorporated into the meeting agenda/packet but not made part of the official meeting minutes as the minutes are limited to "action minutes". The City Clerk's Office is not equipped to transcribe verbal statements, nor clarify what comments provided in any form are intended to convey. Therefore, members of the public may review the video or audio recordings to hear the speaker to better understand what the speaker was seeking to convey. To avoid conflicts between what was stated/written and what the commenter meant to say/write, all public comments will be collected in the most efficient and practical manner available, which shall typically be a summary of verbal comments or a copy/paste of written comments. All comments shall be combined into a document labeled "Public Comments of {date} meeting of the Lakewood City Council". Such document shall be attached to the associated meeting minutes.

AUTHORITY

C.R.S. 24-6-402(2)

PROCEDURE

The City Clerk is responsible for retaining audio/video recordings and developing and retaining meeting summaries in perpetuity.

Meeting minutes will be completed within 30 days as a best practice with the understanding that staff workload on more critical work items may necessitate a delay.

The City Council votes will be recorded on the City website within fourteen (14) days of the meeting as a best practice with the understanding that staff workload may necessitate a delay.

POLICY 05.13 QUASI-JUDICIAL HEARINGS

POLICY

When the City Council considers an application to rezone specific property, and for any other hearing in which the City Council is required to reach a decision by applying established standards or criteria to the particular facts of the matter before it, the City Council shall act in a "quasi-judicial" capacity.

A quasi-judicial public hearing is a public hearing that includes rules established to protect the due process rights of the person/entity holding a protected interest.

- Holding an ownership interest in a specific parcel of property (right to develop, change in zoning, etc.) is an example of a protected interest.
- The members of the City Council acting as hearing officers need to be able to clearly articulate the basis for their decision.
- The individual holding the protected interest must have a full opportunity to be heard on the subject and must have an opportunity to hear and respond to any information that is the basis for the decision impacting their protected right.
- Neither a hearing body nor any of its members, are permitted to have predecided the matter based upon information not made known in the public hearing (ex parte communications).

AUTHORITY

Quasi-judicial action involves the determination of the rights, duties, or obligations of specific individuals on the basis of the application of presently existing legal standards or policy considerations to past or present facts developed at a hearing conducted for the purpose of resolving the particular interests in question. (Sup Ct. Colo, 346 P.3d 52 (2015)).

Quasi-judicial decision-makers are required to base their decisions on relevant review criteria and the evidence in the administrative record. (Ct. of Appeals of Colorado, 405 P.2d 433 (2017)).

PROCEDURE

When acting in a "quasi-judicial" capacity, the City Council acts as a panel of judges, applying established legal standards to the particular facts of an application or case, and makes an unbiased decision on the basis of evidence presented at a properly noticed public hearing. In quasi-judicial matters, City Council members must avoid participating if, in their own judgment, they cannot be objective in voting on the issue because of a financial conflict of interest, bias, prejudgment or "ex parte" contact. Council members are encouraged to contact the City Attorney's Office for assistance in evaluating any potential disqualifying event.

During a quasi-judicial proceeding, the City Council receives evidence from witnesses. Such witnesses may include City staff, the applicant and members of the public. Evidence may be presented in the form of individual testimony or may be demonstrative in nature.

POLICY 05.14 RESOLUTIONS

POLICY

Resolutions shall be used to approve or adopt various items, rules, regulations, and other matters of a generally non-permanent nature, such as contracts, proclamations, general policies, and other documents, and matters identified by charter or ordinance. Resolutions cannot enact legislation or amend or supersede any duly enacted law, whether local or otherwise, except as may be expressly provided by applicable law.

AUTHORITY

Lakewood Home Rule Charter, Section 7.1

Lakewood Home Rule Charter, Section 7.2

PROCEDURE

Passage or adoption of resolutions (and motions) shall require an affirmative vote of a majority of Council members present and voting. There shall be a motion and a second and an opportunity for Council discussion in accordance with applicable rules.

POLICY 05.15 RECESSES/ADJOURNMENT

POLICY

Any City Council member may call for a recess or adjournment at any time during a regular, special or emergency City Council meeting or Study Session. The Mayor may adjourn a meeting at the conclusion of the agenda without taking a formal vote.

During any recess, City Council members must avoid discussion of the substantive issues that are before the Council, and must not take straw votes, make policy decisions or take any other action regarding the business of the agenda. City Council members may discuss general procedures for considering a particular substantive issue on that meeting's agenda.

AUTHORITY

By adoption of the Policy and Procedures Manual

PROCEDURE

The request to recess or adjourn will be brought forth by a motion and a second and may be approved by a simple majority.

If a meeting is adjourned and public comment on a matter set for public hearing (not public comment) is not concluded, when the meeting reconvenes all attendees who had previously signed up to speak on the topic and who did not get an opportunity to speak, will be granted the right to speak on the topic, if they so desire before further action on such item is taken by the City Council.

The City Clerk will make an official record of persons who will be eligible for speaking at a public hearing held at a future meeting should an adjournment and reconvening take place.

POLICY 05.16 ANNUAL PLANNING RETREAT

POLICY

Effective governance and fiscal prudence requires that City policy be developed from a long-range perspective in order to anticipate and effectively meet the needs and goals of the City over time. The Annual Planning Retreat of the City Council is established to provide an opportunity early in the fiscal year for the City Council to work collaboratively to establish annual policy priorities in conformance with the current and following year's budgets, and to work with the City's administrative staff to determine how and when such policies priorities shall be addressed. By setting aside time for a structured discussion away from the normal work environment, members of the City Council can explore issues in depth and exchange ideas with each other in a relaxed environment.

See "The Retreat as a Management Tool." ICMA. VOLUME 33 / NUMBER 1 JANUARY 2001 ITEM NUMBER E-43021. for additional information regarding the seven steps for successfully holding a City Council planning retreat.

AUTHORITY

Lakewood Home Rule Charter, Section 2.15

PROCEDURE

Seven steps to success provided by ICMA.

1. Plan the retreat from beginning to end. Identify the goals of the retreat including the objectives for the meeting.
2. Designate a facilitator (preferably a neutral party trained and skilled in facilitation techniques). Develop an agenda.
3. Find an off-site location. Provide a comfortable environment with adequate refreshments that is conducive to work.
4. Agree on ground rules that promote a safe and courteous environment.
5. Encourage active participation throughout.
6. Be specific about follow-up. Develop an implementation plan that designates responsibility and timelines.

All of the City Council's priorities as established at the annual planning retreat will be added to an online dashboard. The dashboard shall be developed to provide public visibility about the establishment of the priority as well as key information about such priority. The dashboard will also indicate the prioritization of each of the established City priorities.

CODE OF CONDUCT 06

POLICY 06.1 CODE OF CONDUCT

POLICY

General Statement

The City Council recognizes its duty is to serve Lakewood in a non-partisan manner, and to seek and respect the ideas and opinions of all stakeholders. The City Council encourages public participation in meetings and other forums and respects all comments and concerns.

General Conduct

The City Council shall endeavor to comply with the spirit, as well as the letter of all laws, Council mission statement and values, and shall act professionally, civilly, and with decorum. All Council members are equal and should be treated with equal respect.

Conduct at Council Meetings

At City Council Meetings, City Council Members shall:

- Address each other respectfully and give proper regard to the opinions of others.
- Be respectful of people's time and keep remarks brief and relevant.
- Avoid speeches and repetition.
- Focus on issues, not personalities.
- Hold the floor for no longer than five minutes to ask questions or speak to a topic, then they must wait to request the floor again until after all other City Council members have been given the opportunity to hold the floor.
- Be fully informed before the meeting opens and carefully scrutinize agenda packets, including verifying information presented therein.
- Be familiar with the Lakewood Home Rule Charter, the Lakewood Municipal Code and the Council Policies and Procedures Manual and to ensure those and other guiding documents are followed.
- Avoid a "last comment" debate with, or criticism of, speakers or their comments. When appropriate, the presiding officer may ask staff to follow up on questions or other issues.
- Avoid interrupting Council members who have the floor and withhold questions until the speaker yields the floor.

Additional provisions concerning City Council Meetings:

- Only the presiding officer, not individual Council members, can interrupt a speaker during a presentation. Council members can request to speak if the speaker is off the topic or exhibiting behavior or language the Council Member finds disturbing.

- If the speaker becomes belligerent or disruptive, it is the responsibility of the presiding officer to focus the speaker and maintain the order and decorum of the meeting. It is never appropriate to belligerently challenge or belittle the speaker. No personal attacks of any kind, under any circumstance, will be tolerated. Be mindful of your body language in public meetings.
- The presiding officer shall be fair and equitable in allocating public speaking time to individual speakers.
- At the conclusion of a meeting agenda the Chair may adjourn the meeting without taking a vote.

Conduct in Public Meetings in General

At all Public Meetings and Non-Official Encounters, City Council Members Shall:

- Be respectful, fair and impartial with citizens, and shall listen, avoid interruptions and avoid arguments. Council members shall make no promises or inappropriate representations on behalf of the City or Council. Statements of personal opinions should be identified as such.
- When discussing City business with individuals or groups in non-official encounters, strive to present factual information and to avoid presenting opinion as fact.
- Practice civility, professionalism and decorum in discussions and debate. Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of a free democracy in action. This does NOT allow, however, Council Members to make belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging comments.
- Respect the choice of voters by showing respect for all colleagues and their opinions. Council members must strive to consider the opinions of other members and to avoid disparaging or false comments about their peers. That is not to say that debate should be avoided, but it should be framed in a civil and respectful manner.

Conduct with Staff

When Interacting with City Staff, City Council Members Shall:

- Avoid discussing City business or raising questions with staff members, except while voicing general comments or questions at information-gathering meetings such as open house presentations.
- Be respectful and professional and avoid interfering in job duties or giving direction to staff. Any concerns should be directed to City Manager.
- Avoid public criticism of individual staff members.
- Do not intentionally seek political support from any City employees.
- Address requests for information or questions about issues and/or community concerns to the City Manager's designee, who will be the Deputy City Manager unless otherwise designated in writing to the members of the City Council. Suggestions, policy issues, opinions, and criticism should be kept between Council members and the Mayor, City Manager and/or City Attorney.
- Do not disrupt City staff from their jobs in order to have the Council member's individual needs met, whether the staff person is in a meeting, on the phone or engrossed in performing their job functions.

Conduct with Boards, Commissions, and Other Entities

When Interacting with Boards, Commissions, and Other Entities, City Council Members Shall:

- Avoid inappropriate contacts, lobbying, or influence in regard to an agenda item up for action or report.
- Be clear about representing the City or personal interests. If a Council member appears before another governmental agency or organization to give a statement on an issue, the Council member must clearly state if their statement reflects personal opinion or is the official stance of the City.
- If the Council member is representing the City, the Council member must report the official City position on an issue, not a personal viewpoint.

POLICY 06.2 Harassment

POLICY

This policy applies to all members of the Lakewood City Council and Appointed Officials (defined herein as the City Manager, the City Attorney, and the Municipal Judge) in the performance of City governance or operations, at City-sponsored activities, and in all interactions between members of City Council, Appointed Officials, and City employees and contractors (defined herein as "Related Interactions").

AUTHORITY

C.R.S. Section 24-34-306

By adoption of the Policy and Procedures Manual

PROCEDURE

I. Purpose

It is the purpose of this policy to prevent unlawful harassment in City governance, operations, City-sponsored activities, and related interactions, and to provide a mechanism to accept, investigate, and resolve complaints of unlawful harassment against members of the Lakewood City Council and Appointed Officials. Members of the City Council and Appointed Officials are expected to understand and abide by the expectations set forth in this policy and to take appropriate measures to prevent and remedy unlawful harassment.

II. Harassment

The City of Lakewood is dedicated to, and promotes, a work environment that is free from unlawful discrimination and harassment for all of our employees, at every work location in the City, and in any work environment. To meet this goal the City Council strictly prohibits discriminatory practices, including sexual and other unlawful harassment. Any sexual or other unlawful harassment, whether verbal, physical, or environmental, is unacceptable and will not be tolerated in the performance of City governance, City operations, at City-sponsored activities, or in related interactions.

SEXUAL HARASSMENT. Sexual harassment is defined as any unwelcome sexual advance, request for sexual favors, or other verbal or physical conduct of a sexual nature when:

1. Submission to the conduct is made either explicitly or implicitly a term or condition of an individual's employment;

2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting the individual; or

3. The conduct has the purpose or effect of unreasonably interfering with the individual's performance of their City-related function or of creating an intimidating, hostile or offensive environment in interactions with members of the City Council, Appointed Officials, or City employees or contractors.

Sexual harassment does not refer to behavior or occasional compliments of a socially acceptable nature. The types of behaviors that constitute sexual harassment may include, but are not limited to:

- Unwelcome sexual flirtations, advances, or propositions;
- Derogatory, vulgar, or graphic written or oral statements regarding one's sexuality, gender, or sexual experience;
- Unnecessary touching, patting, pinching, or attention to an individual's body;
- Physical assault;
- Unwanted sexual compliments, innuendoes, suggestions, or jokes; or
- The display of sexually suggestive pictures or objects.

Inappropriate sexual conduct that could lead to a claim of sexual harassment is expressly prohibited by this policy. This policy prohibits opposite-sex and same-sex harassment. Sexual harassment may be obvious or subtle. Some behavior that is appropriate in a social setting may not be appropriate in the performance of City governance, City operations, at City-sponsored activities, or in Related Interactions.

GENERAL HARASSMENT. To "Harass" or general "harassment" means to engage in, or the act of engaging in, any unwelcome physical or verbal conduct or any written, pictorial, or visual communication directed at an individual or group of individuals because of that individual's or group's membership in, or perceived membership in, a protected class, resulting in an employer refusing to hire, or to discharge, to promote or demote, to harass during the course of employment, or to discriminate in matters of compensation, terms, conditions, or privileges of employment against any individual otherwise qualified because of disability, race, creed, color, sex, sexual orientation, gender identity, gender expression, marital status, religion, age, national origin, or ancestry, which conduct or communication is both 1) subjectively offensive to the individual alleging harassment and 2) objectively offensive to a reasonable individual who is a member of the same protected Class. The conduct or communication need not be severe or pervasive to constitute a discriminatory or an unfair employment practice under this section and is a violation if:

(i) submission to the conduct or communication is explicitly or implicitly made a term or condition of the individual's employment;

(ii) submission to, objection to, or rejection of the conduct or communication is used as a basis for employment decisions affecting the individual; or

(iii) the conduct or communication has the purpose or effect of unreasonably interfering with the individual's work performance or creating an intimidating, hostile, or offensive working environment.

Petty slights, minor annoyances, and lack of good manners do not constitute harassment unless the slights, annoyances, or lack of manners, when taken individually or in combination and under the totality of the circumstances, meet the standards set forth in this section.

III. Reporting

It is the City Council's policy to encourage the reporting of all perceived incidents of unlawful harassment, regardless of the position of the alleged offender. The City Council will take all steps that are necessary to enforce this policy.

If a member of City Council, an Appointed Official, or a City employee or contractor believes themselves to have been unlawfully harassed by persons subject to this policy, or if such person is aware of potentially unlawful harassment of others by persons subject to this policy, that person shall promptly submit a written or verbal complaint of such harassment to a Receiving Official, as defined in this Section IV.

Anyone complaining of harassment pursuant to this policy may submit their complaint to any one of the following: the City Manager, Deputy City Manager, the City Attorney's Office, or Director of Human Resources (collectively referred to as "Receiving Official"). If a member of City Council receives a harassment complaint, that member must report that complaint to a Receiving Official.

Persons complaining of harassment should provide as many details as possible, and should include the names of individuals involved, the names of any witnesses, dates and times of alleged occurrences, direct quotations when language is relevant, and any documentary evidence (such as notes, pictures, images, drawings, emails, text messages, etc.). Although an individual will not be penalized for a delay in filing a harassment complaint, prompt complaints are encouraged because memories are fresher and because they can help the City conduct a thorough investigation of complaints and to take timely action to address the alleged harassment.

IV. Investigations; Confidentiality; No Retaliation

A Receiving Official who receives a complaint of alleged harassment shall promptly forward that complaint to the Director of Human Resources who will commence an investigation of the complaint as soon as practicable. All such investigations shall be conducted in the following manner: the Human Resources Director will coordinate with the City Attorney's Office to retain an independent outside investigator (preferably a law firm that specializes in workplace harassment and investigations) to conduct an initial review of the complaint, including an interview with the complainant. If after the initial review the investigator finds that there are no grounds to conduct a full investigation of the complaint due to lack of evidence or such complaint failing to meet the requirements of this policy, the investigator will inform the Director of Human Resources of such finding and conclude the initial review. The Director of Human Resources and/or the investigator will follow up with the complainant to explain the determination as to the complaint.

If following an initial review, the investigator finds that there are grounds to conduct an investigation of the complaint the investigator will conduct interviews with the complainant and other individuals with knowledge of relevant facts, and will perform such other actions as are necessary to ensure a complete investigation of all allegations and a fair process for all involved. Once the investigation is deemed complete by the investigator, the investigator shall prepare a written report indicating whether the allegations in the complaint are sustained or not sustained and shall provide such report to the City Attorney's Office to proceed with the steps described below in Section VI of this policy. If the complaint is against the City Attorney, City Council will engage outside counsel to coordinate the investigation, provide related legal advice to City Council, and otherwise fulfill the duties assigned to the City Attorney's Office in this paragraph with assistance from the Human Resources Director as necessary. The City Council's goal is for the investigation process to be simple yet flexible enough to be applied in a wide range of circumstances.

Confidentiality and Open Records.

To the extent permitted by law, including the Colorado Open Records Act, complaints of harassment, reports of investigation on such complaints, and any action taken thereon shall remain confidential. However, some or all of the information may be disclosed as necessary, depending on the action taken on the complaint and any legal requirements.

No Retaliation.

The City Council prohibits retaliation against individuals for filing a complaint or for participating in an investigation of a complaint under this policy. Individuals who believe they have been subject to retaliation for filing a complaint or for participating in an investigation of a complaint must follow the complaint procedure outlined in Section IV of this policy. All such complaints will be investigated in accordance with this policy.

The investigator retained to investigate a complaint shall warn any person against whom a complaint of harassment has been made not to retaliate in any way against the person making the complaint, witnesses, or any other person providing information in connection with the investigation of the complaint of harassment.

V. <u>The City Council's Response to Investigation of Harassment Complaints</u>

The City Attorney's Office shall present the investigator's written report to the City Council in executive session if there are legal grounds to discuss such matter in executive session pursuant to C.R.S. 24-6-402(4). If there are no legal grounds to discuss this matter in executive session then an overview of the report shall be provided to the City Council. To protect the unintended disclosure of the identity of the complainant or witnesses the report itself shall not be distributed. The confidentiality of the overview provided to the City Council shall be determined on a case-by-case basis.

If the investigator determines that the facts and evidence support a finding that the complainant, or other, did suffer an act of harassment or sexual harassment the City Council may meet in executive session with the City Attorney to discuss potential legal ramifications to the City of such actions. The City Council may also consider the matter in an open session and direct any or all of the following actions in response to a finding that a complaint of harassment sexual harassment is sustained:

1. Adopt a resolution finding that an individual covered by this policy violated this policy;
2. Direct or encourage additional corrective training;
3. Such other action as is consistent with its authority under applicable state statutes, the City Charter, ordinances, resolutions, or rules and policies of the City Council.

In any case in which an investigator completes a full investigation of a complaint, a written record of any action taken on the complaint, or any determination to take no further action on the complaint, shall be prepared in consultation with the City Attorney's Office or such other legal counsel appointed by City Council in connection with a given complaint and kept with the report of investigation.

VI. Harassment Training

All members of the City Council shall participate in harassment training every two years.

COMMUNICATION AND CORRESPONDENCE 07

POLICY 07.1 CONSTITUENT REQUESTS

POLICY

City Council members should direct constituent requests to the City Manager's designee for entry into the *Request Lakewood Customer Service Center* system or forward the email to the Direct Response email address (DirectResponse@Lakewood.org).

All requests will be handled by the appropriate staff member who will respond to the constituent directly. Staff is strongly discouraged from using form letters when responding to Lakewood citizens. A communication should be a direct response to each citizen's concerns.

AUTHORITY

By adoption of the Policy and Procedures Manual

PROCEDURE

City Council members can access the Direct Response program by sending an email to DirectResponse@Lakewood.org or by calling 303-987-7134. If this system or telephone number are updated this policy may be updated without further action by the City Council to reflect updated contact information or updated websites.

The City Manager's designee will enter the information into Request Lakewood, ensuring it is sent to the appropriate staff member for a response. The City Manager's designee monitors responses and ensures that staff personally communicates with the resident within 10 days and that the Council members in the Ward where the issue is located are notified of the outcome.

Requests for items to be placed on the agenda or for City staff to attend Ward meetings should be made using the online forms.

Comments regarding a zoning or rezoning case are treated differently because of the quasi-judicial nature of such cases. Comments sent to the Planning Director or Planning staff will be included in the case file that goes to the City Council. Residents can be directed to submit issues using Request Lakewood 24/7 at www.Lakewood.org/RequestLakewood, or by using the mobile app. Residents needing contact information for City Council are directed to the City Council contact web page where they can view phone numbers and email addresses.

Periodic reports are generated from the Direct Response program for citywide issues and the email which is sent to all City Council members electronically. The periodic reports are intended to ensure City Council members receive the same information for frequent requests or concerns covering the same subject matter.

TRAVEL 08

POLICY 08.1 TRAVEL AND EXPENSE REIMBURSEMENT

POLICY

The Mayor and City Council Members are eligible for payment or reimbursement for travel to conferences, classes and trainings as part of their Council-related duties. It is the intent of the City Council to ensure each Council member takes advantage of training and professional development opportunities to broaden his/her understanding of municipal government and enhance his/her role as an elected official. Funds are budgeted by the City Manager and the Mayor annually to accommodate reasonable travel for conferences, seminars, workshops and other training opportunities. Council members are encouraged to attend events such as the National League of Cities (NLC) annual congressional trip, NLC committee appointment travel, the Colorado Municipal League (CML) annual conference and local educational courses offered by CML and the Denver Regional Council of Governments (DRCOG). Other conferences and classes will be considered on a case-by-case basis depending upon budgetary constraints. Council members may be reimbursed for all reasonable and necessary expenses incurred for Council-related duties.

AUTHORITY

By adoption of the Policy and Procedures Manual

PROCEDURE

Authorization for Training and Travel

1. The annual City Council travel budget is reviewed and approved by the City Council during the annual budget process.
2. Travel by members of the City Council must be reviewed for applicability to the responsibilities of a City Counselor, prior to making travel arrangements. This review is performed by the Mayor with the understanding that the Mayor will work to ensure and protect equity while staying within the overall budget.
3. A Council member who is nominated to a committee as a City representative shall outline duties, responsibilities and budgetary impacts to the Mayor prior to accepting such position that requires additional travel. The City Council budget coordinator should be notified of any committee appointments for budgetary purposes
4. City Council members are eligible to travel to local training and classes. Authorization by the Mayor is also necessary. Registration can be made through the Executive Assistant to the Mayor and City Manager.
5. Registration and travel arrangements can be made through the Executive Assistant to the Mayor and City Manager.
6. The Council member will be notified by the Mayor of any rejected travel requests.

Eligible Travel Expenses

1. **Registration**-Actual cost of registration, tuition and fees at a meeting, conference, training or convention will be paid for with authorization of travel. Registration will be paid for through the Executive Assistant to the Mayor and City Manager. The City will not pay for entertainment, social or extracurricular activities unless specifically related to the Council-member's position and approved in advance by the Mayor.
2. **Transportation**- The City will pay actual costs for bus travel, train travel, air travel and car rentals in advance. Airfare and transportation arrangements will be made by the Executive Assistant to the Mayor and City Manager.
    a. Receipts must be kept for any taxi, tolls and parking fees for reimbursement.
    b. If a Council member chooses to drive, rather than fly, actual miles driven to/from the event from the Lakewood Civic Center will be computed at the IRS' standard mileage rate and reimbursed at the conclusion of the trip. The maximum mileage reimbursement for the use of a personal vehicle cannot exceed the cost of the lowest available airfare.
    c. For an event that would typically be driven to, Council members will receive the IRS' standard mileage rate for miles to/from the event from Lakewood Civic Center. Mileage will also be granted to and from the airport.
    d. Rental car costs will be reimbursed for actual expenses incurred, including collision and comprehensive damage insurance coverage for the most economical vehicle. Any time a rental vehicle is kept beyond the duration of the event will not be reimbursed. Every effort should be made to arrange ground transportation and shuttle services to and from the airport to the point of destination without renting a car.
3. **Lodging**-Overnight lodging arrangements will be made by the Executive Assistant to the Mayor and City Manager and payment will be made in advance. Only lodging for the dates of the event will be covered. The City will pay the single rate for lodging accommodation. When a spouse or guest accompanies a council member, the council member will be responsible for any additional charges.
4. **Meals**-Meal costs will be reimbursed based on actual receipts submitted. The City will pay additional costs for optional meal functions that are not included in the registration fee and for which the Council member would be expected to attend as a representative of the City. Meals for a spouse or traveling companion will not be covered.
5. **Advances**-Prior to travel, an advance will be given to each Council member for costs associated with traveling and incidentals. The amount of the advance will depend on the travel destination and purpose. Receipts are still required to be applied to the advance. If no receipts are submitted upon arrival, or if the advance is not used in its entirety, the advance or remaining balance must be returned.

Documentation and Reconciliation of Expenses

Costs will be reimbursed based on actual receipts submitted after the completion of the trip. The City will not reimburse the cost of alcoholic beverages. The expense statement must be reconciled within thirty (30) days after the traveler returns from the trip. The traveler must sign the expense statement certifying that all expenditures are business-related. All receipts must be submitted to the Executive Assistant to the Mayor and City Manager.

POLICY 08.2 GENERAL REIMBURSEMENT FOR EXPENSES

POLICY

Funds in the sum of $600.00 per City Council Member and $1800.00 for the Mayor shall be allocated annually to reimburse the Mayor and the members of the City Council for the regular costs of serving as an elected official. Reimbursements are anticipated to include Ward Meeting expenses, travel expenses associated with attendance at events located within the metropolitan area surrounding the City of Lakewood, and such council member's own meal costs when meals are part of service as a city council member. Those funds not used in any calendar year shall revert to the general fund.

AUTHORITY

By adoption of the Policy and Procedures Manual.

PROCEDURE

The procedure for reimbursing the general expenses of the Mayor and the City Council shall be pursuant to a policy approved by the Director of Finance. Such policy shall ensure that all reimbursements conform to all applicable laws regarding reimbursements so that such funds may not be perceived as compensation of any kind.

Limitations on Out-of-Area Travel. It is the intention of the City Council that reimbursement funds be used for expenses generally incurred in the metropolitan region surrounding the City of Lakewood in carrying out the regular duties of a City of Lakewood elected official. Travel within the metropolitan area may more appropriately be reimbursed pursuant to Policy 08.1 when the event requires overnight stays, registration, or other participation costs. Expenses incurred for travel outside the metropolitan area shall be reimbursed pursuant to Policy 08.1.

Meals. Discretionary funds may be used for meals that are directly related to the responsibilities of the City Council. Expenditures for alcoholic beverages shall not be subject to reimbursement.

Non-reimbursable expenses.

- Reimbursement funds shall not be used in a manner that would violate the City's campaign finance law or any other law.
- Reimbursement funds shall not be used to reimburse individual charitable contributions.
- Reimbursement funds shall not be used in association with constituency communications in the ninety (90) days prior to any election date upon which individuals are running for a seat upon the City Council or up to thirty (30) days following such election.
- Reimbursement funds shall not be used to reimburse postage costs or to send any card expressing holiday greetings.

ORGANIZATIONAL ADMINISTRATIVE REGULATIONS/APPENDIX

Administrative note: Policies are shared with City Council members as part of the Council onboarding process. A summary of significant IT policies is set forth below, but members of the City Council are encouraged to read these policies in full and to reach out to the IT Department for any additional needed support.

1. **TECHNOLOGY ACCEPTABLE USE**
   Summary: All computing devices, networks, applications, software, and data, including email and City websites, are City property and should be used for the purpose of conducting official City business. All information exchanges using City technology resources are subject to City management, IT (at the direction of City management) and/or public inspection under the Colorado Open Records Act.)

2. **MOBILE DEVICE**
   Summary: Mobile devices are important tools for the organization and their use is supported to achieve business goals. However, mobile devices (personal or city-owned) also represent a significant risk to the City's information security and data protection efforts. If the appropriate security applications and procedures are not applied, they can be a conduit for unauthorized access to data and technology infrastructure.

3. **REMOTE ACCESS**
   Summary: Authorized users are permitted to remotely connect to City technology resources to conduct City-related business only through secure, authenticated, and approved access methods.

4. **INFORMATION SECURITY**
   Summary: Anyone who believes City data is being or has been compromised or detects any suspicious activity that could potentially expose, corrupt, or destroy City data must immediately report their concerns to the IT Service Desk.

ADDENDUM 1 MEETING SCHEDULE/ORDER OF BUSINESS

INFORMATION

Regular Council meetings are generally held on the second and fourth Mondays of each month, and Study Sessions are held on the first and third Mondays of each month, beginning at 7:00 p.m. unless the meeting has been canceled for any reason (e.g., holiday).

The order of business, i.e., the agenda, is designed to best facilitate the discussion and decision-making process. An example agenda is shown below. See section 5.15 for details regarding when and how a meeting agenda can be altered.

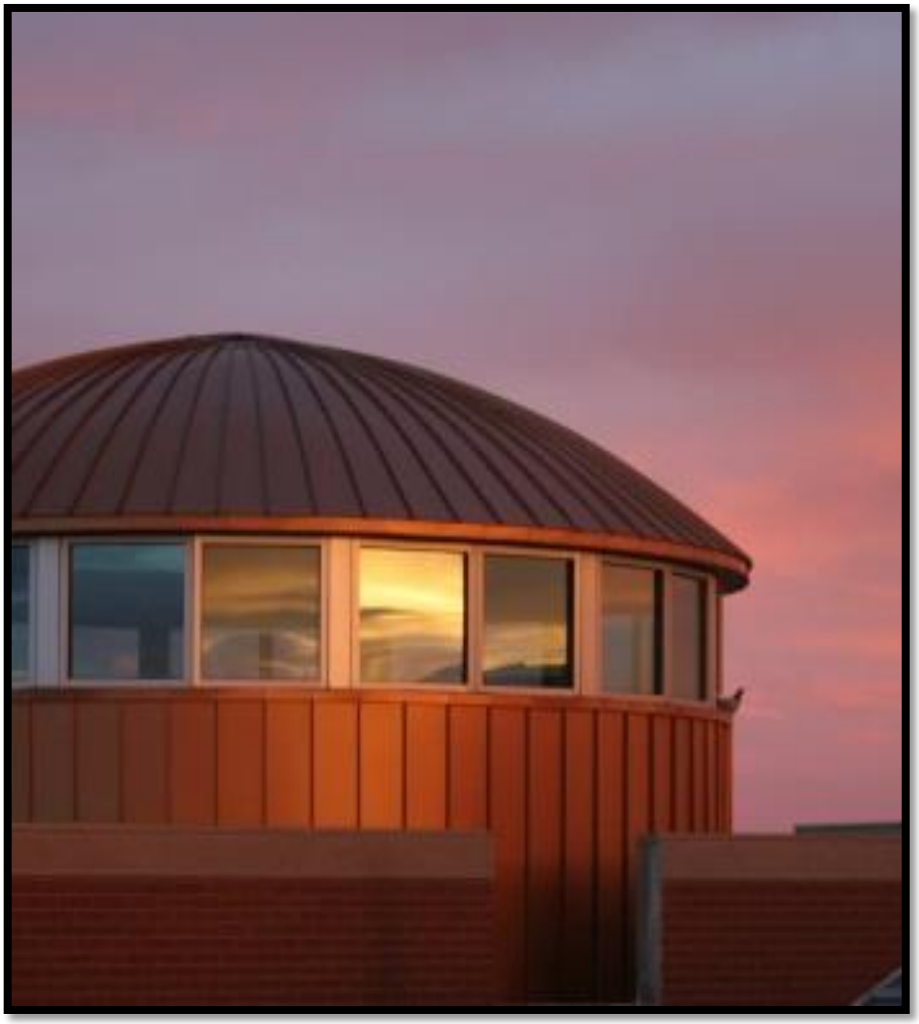
EXAMPLE REGULAR MEETING AGENDA

1. Call meeting to order
2. Roll call, pledge of allegiance, and moment of silent reflection
3. Recognition, proclamations
4. Statement of conflict of interest
5. Optional initial period for Public Comment (Policy 5.8)
6. Consent agenda
    a. Reading of ordinances on first reading (no public comment)
    b. Resolutions
    c. Approval of Council Meeting Minutes
    d. Acceptance of minutes of boards and commissions
    e. Public hearing on consent agenda items of final action, prior to Council vote
7. Discussion and vote on any item/s pulled from consent agenda
8. Ordinances on second and final reading/Public hearing upon each
9. Public comment on items not appearing on the agenda (Policy 5.8)
10. General business
11. Executive Report
12. City Council Reports
13. Mayor's Report
14. Adjournment

11:00 p.m. check-in to determine whether the agenda is on target for completion at a time when members of the public will be able to hear all of the business of the City, including Reports of the City Manager and elected officials.

EXAMPLE STUDY SESSION MEETING AGENDA

1. Call meeting to order
2. Roll call
3. Presentation
4. Public Comment
5. Repeat 3-4 for any additional, scheduled presentations
6. Committee Reports
7. Adjournment



Council Policies and Procedures Manual

Adopted August 12, 2024

Table of Contents

GENERAL 01

POLICY 01.1 MAYOR AS PRESIDING OFFICER

POLICY

The mayor serves in a leadership role and presides over meetings of the City Council.

AUTHORITY

Lakewood Home Rule Charter, Section 2.3.
By adoption of the Policy and Procedures Manual.

PROCEDURE

The Mayor is elected directly by the voters. The Mayor presides over all meetings of the City Council, which are held in accordance with ~~Roberts'~~ the formally adopted Rules of ~~Order~~ Parliamentary Procedure, except that state constitutional and statutory provisions and local ordinances, resolutions, and procedural rules shall govern in the event of a conflict. In addition, in applying the rules of procedure, the Mayor shall have some discretion and flexibility. The Mayor presides over meetings and has the same rights and responsibilities of a City Council member, including the ability to offer opinions at City Council meeting and to vote on issues. The Mayor has no veto power.

The Mayor is recognized as the head of the municipal government of the City for all ceremonial purposes, including performing ceremonial functions.

The mayor has routine responsibilities that include signing legal instruments. The Mayor also assigns committee responsibilities to City Council members pursuant to Policy 4.1, approves travel for City Council Members and serves as a member of the police pension board. The Mayor shall have such other powers as may be conferred upon the Mayor by the City Council so long as those powers are not in conflict with the provisions of the City Charter.

POLICY

The officers of the Lakewood City Council shall be the Mayor and Mayor Pro Tem.

AUTHORITY

Lakewood Home Rule Charter, Section 2.3.
Lakewood Home Rule Charter, Section 2.4.
Lakewood Municipal Code, Section 1.27.070
By adoption of the Policy and Procedures Manual.

PROCEDURE

One member of the City Council is chosen each year, at the first regular City Council meeting in January, to serve as Mayor Pro Tem. There is no limitation upon the number of terms a member of the City Council may serve as the Mayor Pro Tem.

The Mayor Pro Tem can be nominated by anyone, including self-nomination. Nominations are taken via email, as part of the email process used to determine Council committee assignments, or at any time thereafter, including from the floor the day of the vote.

The term of Mayor Pro Tem is one (1) year, and if the Mayor Pro Tem resigns from the position, the process to select a new Mayor Pro Tem to serve out the remainder of the term will be immediately initiated following the nomination process outlined above. The vote to select a Mayor Pro Tem will ~~use a generally accepted voting method, either by majority or plurality~~ by regular motion and be passed with the approval of a majority of those members present and voting. This decision as to what type of ~~electoral~~ system to use to determine how elections are conducted and how the results are determined will be left to the City Council to decide just prior to the vote.

The primary responsibility of the Mayor Pro Tem is to serve as the Mayor when the Mayor is unavailable, including presiding over meetings and signing any documents that require a Mayoral signature.

In the event that both the Mayor and Mayor Pro Tem are unavailable for a City Council meeting, the Council shall elect a presiding officer for that meeting who shall have all authority as prescribed to the position of Mayor Pro Tem for the duration of such meeting, including signing documents approved during the meeting.

POLICY 01.3 REMOVAL FROM OFFICE

POLICY

The City's home rule charter provides that the City Council shall have the power to remove, for cause, the Mayor and/or any City Council Member from office, as provided by ordinance.

AUTHORITY

Lakewood Home Rule Charter, Section 2.13.
Lakewood Municipal Code 2.05.

PROCEDURE

The requirements and procedure for removal of the Mayor or Council Member shall be as set forth in Chapter 2.05 of the Lakewood Municipal Code. The City Council are encouraged to review and update L.M.C. Chapter 2.05 every five years.

FINANCE 02

POLICY 02.1 BUDGET

POLICY

The City Council has established the following policies and procedures to guide in the preparation, review and adoption of the annual city budget:

I. The annual draft budget submitted by the City Manager for City Council consideration will be balanced; i.e., revenues must match or exceed expenditures.

II. If special circumstances warrant the use of general fund reserves, the City Manager will submit a memorandum to Council outlining those special circumstances, the amount requested, the impact on City services, and alternatives, if any, to the use of General Fund reserves.

III. The annual draft budget will include a five-year estimate for costs and revenues for any proposed new program.

IV. Any proposal for the City to acquire property will include a five-year estimate of maintenance and operation costs.

V. The City Council Budget and Audit ~~Committee~~ Board will consist of three Council members and three citizen representatives who apply to and are recommended by the Council Screening Committee, with the concurrence of City Council. Citizen Representatives are limited to two (2) three (3) year terms. The terms are staggered across three (3) years.

VI. ~~Thirty percent (30%) of the General Fund reserve will be set aside for public safety purposes, which shall be defined as police, municipal courts, municipal prosecution and related support services.~~ All sections of the City's Charter and Municipal Code regarding the City's budget and budget process shall be interpreted to comply with Article X, Section 20 of the Colorado Constitution setting forth The Taxpayer's Bill of Rights which supersedes the City of Lakewood charter and Municipal Code. ~~Thus, a~~Any provision of the Lakewood City Charter or Municipal Code that would violate a provision of TABOR cannot be applied.

VII. The annual draft budget shall reflect a minimum ten percent (10%) General Fund balance.

VIII. The Budget and Audit Board, as established by the City Council, and the Chief Financial Officer shall jointly select a certified public accounting firm to conduct the City's annual audit. The Chair of the Budget and Audit Board shall notify the City Council of its selection during any year in which a new certified public accounting firm is retained.

AUTHORITY

Resolution 2005-48.
Lakewood Home Rule Charter, Section 3.3.

Lakewood Municipal Code, Chapter 2.55.

PROCEDURE

Refer to policy 04.1 regarding City Council Committee Assignments.

Refer to policy 04.2. regarding the Screening Committee's authority to appoint citizen members.

PERSONNEL 03

POLICY 03.1 CITY MANAGER PERFORMANCE REVIEW

POLICY

The City Council shall evaluate the performance of the City Manager annually and review each evaluation with the City Manager on or before Mayl 1st of each year unless otherwise set forth within the Manager's employment agreement.

AUTHORITY

Lakewood Home Rule Charter, Section 3.5.

PROCEDURE

As the City Manager is the direct employee of the City Council it is in the City's Council's best interest to establish an employment relationship with the City Manager via employment contract, including setting general job performance standards. The job performance of the City Manager is typically evaluated annually in accordance with the terms of the City Manager's contract, if any.

If the City Manager is serving without an employment agreement the City Council will participate in a review of the City Manager and will be afforded the opportunity to provide comments and feedback on performance and process. When the information is compiled, the City Manager will be given a copy of the written review and will meet in Executive Session with the City Council to go over the review, discuss any points of concern and develop performance measures for the subsequent year. ~~A schedule for the City Manager's review process will be developed jointly, in January, by the Mayor and City Manager and conveyed, at the next regular council meeting, to the entire Council, for review and approval or rescheduling. In any case, the review will be completed before the last day of May.~~

Outside consultants may be retained to support the performance evaluation process.

POLICY 03.2 CITY MANAGER EXPENDITURES

POLICY

The City Manager does not have an expense account, but is authorized to make business expenditures in the course of performing ~~his/her~~ the duties of the City Manager.

AUTHORITY

Lakewood Home Rule Charter, Section 3.3.
By adoption of the Policy and Procedures Manual.

PROCEDURE

The City Manager's expenditures will typically be made via a City-issued procurement card. The procurement card statement shall be reviewed by the Mayor on a monthly basis. The City Manager's expenses can be reviewed in the Lakewood Ledger.

POLICY

The City Attorney shall present an annual report of activities and legal services rendered by the City Attorney's office and any outside legal counsel. The City Council shall evaluate the performance of the City Attorney annually during an executive session held on or before May 1st. ~~and review each evaluation with the City Attorney in accordance with the terms of the City Attorney's contract.~~ The City Council shall set annual performance measures for the City Attorney and shall review, modify as needed and approve a draft version of the City Attorney's proposed budget for the upcoming fiscal year.

AUTHORITY

Lakewood Home Rule Charter, Section 4.6.
By adoption of the Policy and Procedures Manual.

PROCEDURE

The Charter of the City of Lakewood identifies the City, and each of its component parts, as the client of the City Attorney and establishes the City Council as the supervisor of the City Attorney. ~~job performance of the City Attorney is to be evaluated annually~~. As the City Attorney is the direct employee of the City Council it is in the City's Council's best interest to establish an employment relationship with the City Attorney via employment contract, including setting general job performance standards. ~~in accordance with the terms of the City Attorney's contract, if any. The City Council may, at its discretion, request additional reports of activities and legal services rendered for the City by the City Attorney, the City Attorney's Office and any outside legal counsel.~~

Whether or not the City Attorney operates in accordance with an employment contract the City Council will ~~participate in a~~ annually review ~~of~~ the City Attorney on or before the first day of May ~~and will be afforded the opportunity to provide comments and feedback on performance and process.~~ Prior to the date of the City Attorney's performance review the City Attorney will provide the members of the City Council with a report showing how the performance standards were met, how the CAO budgeted dollars were spent, and any proposed updates to the following year's CAO departmental budget. ~~When the information is compiled, the City Attorney will be given a copy of the written review and will meet in~~ The City Council will meet with the City Attorney in Executive Session. At the Executive Session ~~with~~ the City Council ~~to go over the review,~~ will discuss any points of concern, ~~and~~ develop/accept performance measures for the subsequent year and review a draft of the CAO department budget for the following year. The City Council shall determine a merit increase for the City Attorney to be formally approved in an open session unless set forth within an employment contract.

~~A schedule for the City Attorney's review process will be developed jointly, in January, by the Mayor and City Attorney and conveyed, at the next regular council meeting, to the entire Council, for review and approval or rescheduling. In any case, the review will be completed before the last first day of May.~~

COMMITTEES, BOARDS AND COMMISSIONS 04

POLICY 04.1 CITY COUNCIL COMMITTEE ASSIGNMENTS

POLICY

City Council Members, in addition to their responsibilities in representing constituents through policy making decisions for the City of Lakewood, are asked and expected to serve ~~on one or more committees per year~~ on City Council committees in a number generally equal to the number of committees served upon by all other members of the City Council.

City Council Committee appointments are made annually in the manner set forth in the procedure section below. Once a City Council Committee position has been assigned to a member of the City Council the position may be reassigned to a different member of the City Council during the term of appointment only if the Council Member holding that position requests the reassignment by notifying the Mayor in writing (i.e., letter or email) except pursuant to Policy 5.4.

City Council Committees

Committees arise from a number of sources and needs:

- Community organizations that have asked for City Council leadership.
- Intergovernmental in nature (e.g. Colorado Municipal League; Denver Regional Council of Governments, etc.).
- Required by law to have an elected official as a member (e.g., Head Start Policy Board).
- Others are groups providing specific guidance to staff or others (e.g., the Council Legislative Committee; Budget and Audit Committee).
- Ad hoc committees, which are formed as needed by vote of City Council.

Staff liaisons for all committees will be designated by the City Manager.

Descriptions of each Committee, Commission and Board shall be maintained by the City Clerk's Office and shall be posted on the City's website.

City Council Committees as of the adoption of this manual, not including ad hoc, are:

City Council Committees

Housing Policy Commission

Legislative Committee

Screening Committee

Judges Salary Review Committee

Ad Hoc Committees as needed

Budget and Audit Board (joint City Council and citizen members)

Employee Boards that include a member of the City Council

Employee Money Purchase Pension Plan

Police Pension Board

External Intergovernmental Boards (All Council)

Head Start Executive Committee Governing Board

Note: This role is only applicable during a time period when the City of Lakewood is the provider of Head Start Services. The City Council may designate a smaller committee of the membership of the City Council to manage the regular responsibilities of this role.

External Intergovernmental Boards (By Appointment)

Colorado Municipal League Policy Committee

Denver Regional Council of Governments (DRCOG)

Jefferson County Community Corrections Board

Jefferson County Criminal Justice Committee

Sister Cities Committee

Police Seizure Fund Committee

Urban Drainage and Flood Control District

Jefferson County Transportation Advisory and Advocacy Group (JEFFTAAG)

~~**Budget and Audit Committee**: This committee consists of three Council Members and three citizens who are selected at large by the Screening Committee and presented to Council. It meets as necessary and is charged with serving as oversight committee reviewing financial statements, budget forecasts and to provide feedback on budgetary compliance with City policies. Citizen members serve three-year terms and may serve no more than two terms.~~

~~**Colorado Municipal League Policy Committee**: Meets four times per year, starting in the end of the calendar year. Meetings are generally in October, December, February, and May, from 10 am to 1:30 pm, and consider pending policy issues for CML, discuss proposed state legislation and the committee recommends positions to the CML Executive Board and staff. CML staff provides packets prior to the meetings. The City has two appointments to this committee (one member from the City Council Legislative Committee and the staff liaison), and one alternate.~~

~~**Denver Regional Council of Governments (DRCOG):** The purpose of DRCOG is to foster regional cooperation among the 56 cities and counties that comprise its membership. It focuses on quality of life issues such as mobility, environment, public safety and growth. Each member government has an elected official serving on the Board of Directors of the Denver Regional Council of Governments. One regular and one alternate are appointed to represent Lakewood on the Board. It meets the third Wednesday of the month from 6:30 pm for 2-3 hours. There is opportunity to participate in several other committees.~~

~~**Head Start Executive Committee Governing Board**: Three Council Members are appointed to serve as the Governing Board for the Head Start Program. The Board has fiduciary responsibility for the program and meets monthly the third Monday of the month at 5:30 pm or as needed.~~

~~**<u>Jefferson County Community Corrections Board:</u>** This board is responsible for screening and placement of felony offenders in Jefferson County halfway houses. They are also the policy board for community corrections in the county. It meets on the fourth Thursday of the month from January through October. In November and December, they meet on the third Thursday of the month. The meetings are from 7 am to 9 am and take place in the Lookout Mountain Room in the Courts and Administration Building (TAJ). A member and an alternate must be chosen from among current City Council members.~~

~~**<u>Jefferson County Criminal Justice Committee:</u>** This group represents the various elements of the criminal justice system in Jefferson County and includes some state and elected officials. It discusses and makes recommendations on issues such as managing the jail population, efficiencies in the criminal justice system, mental health issues that might impact the system, and prevention programs. It meets the third Wednesday of odd months at 5 p.m. A regular and an alternate, elected official from Lakewood are appointed to the Committee.~~

~~**<u>Jefferson County Transportation Advisory and Advocacy Group</u>**: (JEFFTAAG). This Committee consists of an elected official representative from each of the cities in the county and an alternate position, filled by a staff person. It meets the second Wednesday of each month to review issues related to funding of transportation projects for the County and the municipalities within it.~~

~~**<u>Judges' Salary Review Committee</u>**: One Council Member from each ward meets annually in the 2nd quarter to study data and make recommendations to the whole Council as to the appropriate compensation for the presiding judge and all regular full-time judges. Committee recommendation is prepared by staff in a resolution for recommendation to Council.~~

~~**<u>Council Legislative Committee</u>**: One member from each ward is assigned to this committee. It meets as needed during the State legislative session from January to May. Meetings are typically bi-weekly starting late January and are scheduled throughout the session as needed for proposed legislation. The committee takes positions on pending legislation and conveys those positions to state elected representatives. Packets are provided that summarizes the proposed legislation, summarizes staff feedback and summarizes positions taken by other entities particularly Colorado Municipal League.~~

~~**<u>Police Seizure Fund Committee:</u>** This Committee (comprised of a Council Member and the District Attorney) meets as needed to make recommendations on the disposition of money and property seized during major arrests. The Committee receives and reviews written requests by the Police Department. Committee meets on an as needed basis.~~

~~**<u>Council Screening Committee:</u>** This committee consists of one Council Member from each ward. It meets as necessary and is charged with interviewing applicants for the City's boards and commissions and making recommendations on appointments to the entire Council.~~

~~**<u>Sister Cities Committee:</u>** This committee meets on the third Thursday of each month to discuss updates from Lakewood's four Sister Cities – Portsmouth and Chester, England, Sutherland Shire, Australia; and Stade, Germany.~~

~~**<u>Urban Drainage and Flood Control District:</u>** By law, the appointment to this Board of Directors must be either the mayor or mayor pro tem. The District oversees multi-jurisdictional drainage systems and flood control mitigation. The Board meets the third Thursday of the month at 12:30 pm – 2:30 pm. They do not meet in January or July and the first meeting is the first business day in February.~~

AUTHORITY

Ad Hoc Committees
    Lakewood Home Rule Charter, Section 4.5
Boards and Commissions, General
    Lakewood Home Rule Charter, Section 4.5,
    Lakewood Municipal Code Chapter 2.01
Budget and Audit Board
    Lakewood Municipal Code, Chapter 2.55
Design Review Commission
    Lakewood Municipal Code, Chapter 2.58
Employee Money Purchase Pension Plan
    Lakewood Municipal Code 4.04
    The Employee Money Purchase Pension Plan enabling documents
Housing Policy Commission
    Lakewood Municipal Code, Chapter 2.57
Judicial Nominating Committee
    Lakewood Home Rule Charter, Section 5.3
Judicial Review Commission
    Lakewood Home Rule Charter, Section 5.3
    Lakewood Municipal Code, Chapter 2.21
Lakewood Advisory Commission (LAC)
    Lakewood Municipal Code, Chapter 2.56
Planning Commission
    Lakewood Home Rule Charter, Section 9.1
    Lakewood Municipal Code, Section 2.16.010
Screening Committee
    City Council Policies and Procedures

PROCEDURE

The Mayor shall make recommendations for City Council committee assignments in January (or earlier) for the duration of the calendar year (or following calendar year), and re-assignments at the time of need.

The City Council member committee appointment process begins when the Mayor sends a memo to all members of the City Council identifying the available committee assignments and asking each Council member to select those of most interest to them. The Mayor will attempt to match Council members with their individual interests when possible, given any restrictions that may be in place.

The Mayor's recommendations are generally ratified by a single formal action of the City Council. Prior to ratification any Council Member can request a recommendation of appointment be ~~pulled~~ removed from the primary list for separate consideration ~~and any City Council members can~~ or may nominate themselves or a fellow councilor to fill a committee assignment in a manner different from that recommended by the Mayor.

~~The vote to determine committee assignments will use a generally accepted voting method, either by majority or plurality. This decision as to what type of electoral system to use will be left to the council to decide just prior to the vote.~~

POLICY 04.2 SCREENING COMMITTEE

POLICY

The Screening Committee is a permanently established committee of the City Council which shall consist of five (5) City Council members – one (1) from each of the five (5) Wards – and is responsible for making recommendations to the City Council regarding applicants for the City's Boards and Commissions that are comprised of Lakewood citizens. Screening Committee meetings shall be open to the public and posted in accordance with state and local open meeting requirements and shall be listed under Public Meetings notices on the City website. Appointments will be made by City Council Resolution.

Citizen Boards and Commissions for which the Screening Committee shall be responsible for interviewing applicants and making recommendations to the City Council include:

Budget and Audit Board	Planning Commission/Board of Adjustment
Board of Appeals	Victim Assistance Compensation Board
Design Review Commission	Historic Preservation Board
Judicial Review Commission	Judicial Review Commission
Lakewood Advisory Committee (LAC)	Noxious Weed Local Authority

The Screening Committee is further authorized to review any request from a board or commission chairperson regarding removal of a member from such board or commission based upon excessive absences. To refer a request for removal to the Screening Committee the referring board or commission shall verify that such member has missed 30% of the meetings of such board or commission. The Screening Committee shall review the request including any statement submitted by the individual whose membership is in question. If, after reviewing all statements provided, the Screening Committee determines that such member is not currently able to fulfill the duties of such member's assignment then they shall make a recommendation to the City Council to remove such member from the assigned board or commission. Upon the screening committee's recommendation, the City Council may act to remove the board or commission member.

AUTHORITY

Board of Adjustment
 Lakewood Home Rule Charter, Section 2.16
 Lakewood Municipal Code 9.1(e)
Board of Appeals
 Lakewood Municipal Code 14.12
Boards and Commissions, General
 Lakewood Home Rule Charter, Section 4.5,
 Lakewood Municipal Code 2.01
Budget and Audit Board
 Lakewood Municipal Code, Chapter 2.55
Design Review Commission
 Lakewood Municipal Code 2.58
Employee Money Purchase Pension Plan
 Lakewood Municipal Code 4.04
 The Employee Money Purchase Pension Plan

Lakewood Advisory Commission (LAC)
    Lakewood Municipal Code, Chapter 2.56
Planning/Zoning
    Lakewood Home Rule Charter, Section 9.1(a)
    Lakewood Municipal Code 17-1-7(3) (a)
Victims Assistance Board
    Lakewood Municipal Code 1.17.060

PROCEDURE

The Screening Committee shall be guided by the following rules:

I. Meetings.

- Committee meetings shall require a quorum of no less than three members.
- Staff will arrange Committee meetings and contact Committee members regarding scheduling.

II. Interviews.

- All openings will be advertised.
- In the event that a single applicant applies for a vacancy, the deadline for applications will be extended one time to solicit additional applicants.
- The boards and commissions coordinator will coordinate interviews of at least three (3) candidates, but the number of candidates to be interviewed shall be flexible and should be discussed with the chairperson prior to scheduling.
- The Committee will interview all applicants for boards and commissions, including incumbents applying for reappointment. Notwithstanding the foregoing, if an applicant was last interviewed for the same board or commission to which he or she is currently applying within the previous six months, except for Planning Commission applicant must be interviewed regardless of whether or not they had previously applied to the Planning Commission.
- The Committee shall conduct all applicant interviews in a fair and consistent manner, by adhering to the committee-approved question list for each position.
- For Planning Commission applicant interviews, the Mayor and the Council member not on the committee and from the ward of the applicant will be invited to attend and may participate in the discussion following the interviews. However, the Mayor and the aforementioned Council member cannot participate in the interviews or vote.

POLICY 04.3 JUDICIAL ~~PAY PROCESS~~SALARY REVIEW COMMITTEE

POLICY

The City Council shall establish the compensation of all judges of the Municipal Court by ordinance as required by the City's home rule charter.

AUTHORITY

Lakewood Home Rule Charter, Section 5.8(a).
Lakewood Municipal Code 2.20.

PROCEDURE

The Judges' Salary Review Committee will be formed each year following the policy and procedure outlined in section 04.1.

The City Manager or designee, in coordination with the Department of ~~Employee Relations~~ Human Resources, shall conduct a salary survey of municipal and county judges in the Denver metropolitan area. The survey results shall include a weighted average of municipal judges' salaries and other relevant salary information. The salary survey shall be provided to the Judges' Salary Review Committee by the end of the first week of April each year.

Upon completion of the salary survey and no later than April of each year, the City Manager or designee shall schedule a meeting among the Salary Committee and the presiding municipal judge to discuss the salary survey and to exchange information about the Municipal Court and judges.

The Committee shall thereafter submit to the City Council a proposed Judicial Pay ordinance, prepared by the City Manager or designee, containing the Committee's recommendations for the salaries of Municipal Judges and the Presiding Municipal Judge. The ordinance shall include a recommended hourly rate for Associate Municipal Judges. This process should be completed by May of each year.

The City Council shall consider the Judicial Pay ordinance at the next available regular City Council meeting.

MEETINGS 05

POLICY 05.~~1~~0 MEETINGS DEFINED/OPEN MEETINGS

POLICY

All meetings of the members of the City Council shall comply with the Colorado Open Meetings Law (OML), which broadly defines a "meeting" as "any kind of gathering convened to discuss public business, in person, by telephone, electronically, or by other means of communication." This definition may be updated to remain in compliance with the COML.

Regular meetings are defined as regularly scheduled meetings of the City Council held at City Hall at a day and at an hour established by ordinance. Business of the City Council may be conducted at any regularly scheduled meeting.

Special meetings are defined as meetings of the City Council which are set as needed pursuant to notification procedures established by ordinance. Business of the City Council may be conducted at any special meeting. A Special Meeting may be scheduled either by majority vote of the City Council at a Regular Meeting or by a "Notice of Special Meeting" signed by the Mayor and three Council members and delivered to all Council members at least 24 hours in advance of the Special Meeting. If notice is delivered to City Council members then they must sign a receipt for the Notice of Special Meeting which is to be returned to the City Clerk for record keeping purposes. Full and timely notice must be given to the public prior to a special meeting.

Emergency meetings are defined as meetings of the City Council which are needed to address an emergency situation of the City. An emergency meeting is different from a regular of special meeting in that it may not be able to be noticed to the public twenty-four hours in advance of the meeting. Limited business of the City Council may be conducted at an emergency meeting in accordance with the provisions of L.M.C. 2.02.050.

Study session meetings are defined as meetings of the City Council to provide an opportunity for the City Council to study a matter of the City. Full and timely notice must be given to the public prior to a study session. The purpose of a study session is No final decisions of the City Council may occur at a study session. Administrative decisions may be undertaken at a study session, including but not limited to, directing staff to place a matter on a future agenda of a regular or special meeting, setting a date for a future action, or seeking consensus on directing staff to undertake a future action.

Workshop meetings are defined as informal meetings of the City Council to meet a specific goal of the City Council. City Council retreats are one type of workshop meeting, but a workshop may be established in any format to meet the needs of the City Council including, but not limited to, site visitations within or outside the City. Full and timely notice must be given to the public prior to holding a workshop meeting. No public input is anticipated at workshop meetings. Minutes are not kept at workshop meetings due to the informal nature of the meeting. No formal action may be taken at a workshop meeting, but administrative decisions may be undertaken, including but not limited to, directing staff to place a matter on a future agenda of a regular or special meeting, setting a date for a future action, or seeking consensus on directing staff to undertake a future action. An audio recording of a workshop meeting shall be made. (See Policy 05.16 regarding the City Council's annual planning retreat workshop meeting.)

Committee meetings are defined as set forth in Policy 04.1. Meetings of committees of the City Council are open meetings. Full and timely notice of all City Council committee meetings shall be given to the public prior to a committee meeting. Committee meetings shall be recorded either by auditory or video means. Committee meetings are less formal than other meetings of the City Council and may follow less formal procedural rules at the discretion of the committee chairperson.

See Addendum 1 of this Policy and Procedure Manual for a sample meeting schedule and order of business details.

AUTHORITY

Lakewood Home Rule Charter, Section 2.15 and 2.02.050.
C.R.S. 24-6-402(1) (b).

PROCEDURE

Based on the definition of "meeting" in the OML, virtually any time *three or more* Council members discuss public business, the discussion could be considered a meeting requiring notice to the public, regardless of whether the Council members are in the same room, talking by telephone, or communicating serially via email or other electronic medium.

The Colorado Supreme Court has ruled that "merely discussing matters of public importance" does not trigger the requirements of the OML; there must be a "demonstrated link" between the ~~meeting~~ matter discussed and the City Council's policy-making powers, such as a rule, regulation, ordinance or other formal action.

POLICY 05.1~~(A)~~ VIRTUAL/ELECTRONIC (REMOTE) MEETINGS ~~PARTICIPATION~~

POLICY

A public meeting includes any kind of gathering convened to discuss public business, in person, by telephone, electronically, or by other means of communication. All public meetings of the City may be conducted by telephonic, electronic or hybrid means in accordance with this Policy. The term "Mayor" also includes the Mayor Pro Tem and/or the presiding officer conducting a public meeting. If the Mayor is participating in a meeting by electronic means and the Mayor Pro Tem is participating in person, the Mayor Pro Tem (or other designated chair) shall preside over the meeting.

AUTHORITY

Lakewood Home Rule Charter, Section 2.15. C.R.S. 24-6-402, and C.R.S. 24-6-401 et seq.

PROCEDURE

I. Electronic (Remote) Participation.

Meetings of the City Council shall be primarily conducted in-person at City Hall. However, individual Councilpersons may participate in meetings by telephone or electronically using a platform approved by the City. Generally, a Councilperson's participation in a meeting shall be in-person at City Hall unless said Councilperson has reason to be away for either personal or health reasons. A Councilperson may participate in meetings held by telephone or electronically **if all** of the following conditions are met:

A. All members of the City Council, City staff and the public can hear one another clearly, can communicate with one another, and can hear or read all meeting information in a manner designed to provide maximum participation; and

B. The member is in a physical location with good connectivity (telephone or internet) that is free from distractions; and

C. Members of the public can hear the public meeting, including all members participating remotely ~~and are afforded opportunities to participate in public comment~~; and

D. All votes are conducted in a manner that documents each member's vote; and

E. To the extent possible, full and timely notice is given to the public setting forth the time of the meeting, and the fact that some members of the body may participate remotely.

II. Meeting Notices.

Meetings at which the members of the body are personally present, in whole or in part, which provide electronic means to allow for the public to participate remotely shall be known as "hybrid" meetings. Meeting notices shall advise the public when a public meeting is anticipated to be in a hybrid format, however, such notices shall also advise the public that unanticipated technological issues that prevent a meeting from being held in a hybrid format shall not be grounds for cancelling a public meeting.

III. Arranging for Electronic Participation.

A. A Councilperson desiring to participate by telephonic or electronic means shall contact the City Clerk at least twenty-four hours in advance of a public meeting ~~to provide notice of a meeting conducted under this policy~~.

B. Telephonic or electronic participation shall only occur using a telephonic or electronic platform approved by the City.

C. The Mayor is authorized to discontinue a Councilperson's participation in a meeting if the communication of the Councilperson is unclear to the meeting participants. The Mayor shall state for the record the reason for discontinuing a Councilperson's participation and the time of such discontinuance. The member may be readmitted later in the meeting if such technological issues are corrected. The Mayor shall state for the record the time at which such member was readmitted to the meeting.

IV. Effect of Electronic Participation.

A. **Effect of Electronic Participation**. A Councilperson who participates in a meeting by electronic means consistent with this Policy shall be considered "present" at the meeting for purposes of establishing a quorum and entitled to vote on matters coming before the City Council.

B. **Executive Sessions**. In the event that the City Council holds an executive session, participants may be authorized to attend via telephonic or electronic participation. A Councilperson participating in an executive session remotely shall: (a) have a secure telephone or electronic connection, and (b) certify that they are located within a controlled area to which no other person has access (typically indoors, within a closed room). Executive sessions for personnel matters shall not be open for electronic participation except with the approval of the employee who is the subject of the executive sessions in accordance with the Open Meetings Law.

C. **Quasi-Judicial Hearings**. A Council member may not actively participate in a quasi-judicial public hearing or vote upon the outcome of such quasi-judicial public hearing in recognition that virtual participation has inherent limitations, including limiting one's ability to fully evaluate a speaker's non-verbal language in assessing veracity or credibility, and observing nonverbal explanations (e.g., pointing at graphs and charts) during a speaker's presentation or testimony. A Council member who is not physically present at a quasi-judicial public hearing shall not be prohibited from monitoring/listening to the quasi-judicial public hearing through an electronic means.

V. Public Participation/Hybrid Meetings.

~~For meetings where it is practical for the City to utilize an electronic communication platform (e.g. Zoom, or other approved platform), members of the public may participate in as designated by the Agenda in accordance with the rules governing a limited public forum. The City may impose requirements on public participation by electronic means such as requiring a member of the public to the Clerk prior to the meeting or during the meeting expressing their desire to participate on a specific agenda item. Online participants may also be directed to use the City's online public comment portal City Council.~~

Reasonable Accommodations.

The City may provide reasonable accommodation and waive or modify provisions of this Policy for the benefit of any meeting participant or member of the public in accordance with the Americans with Disability Act or to address a situation not otherwise addressed by this policy.

POLICY

All City Council meetings shall be open to the public and, with the exception of emergency meetings, public notice shall be provided in accordance with state and local open meeting requirements and shall be listed under Public Meetings notices on the City's website.

AUTHORITY

Lakewood Home Rule Charter, Section 2.15.
C.R.S. 24-6-402(2).
L.M.C. 2.02.050.
~~By adoption of the Policy and Procedures Manual~~.

PROCEDURE

I. Public Meetings.

A. A "public meeting" occurs, and must be open to the public, whenever three or more City Council members convene in person, by telephone, electronically or by other means: (i) to discuss public business pursuant to the City Council's policy-making powers; or (ii) to contemplate taking formal action.

B. City Council ~~and Staff~~ Retreats. If a retreat or ~~similar gathering~~ other form of workshop meeting is attended by three or more City Council members and either of the situations identified in "A" above occur, it ~~may~~ ~~qualify as~~ is a meeting that must be open to the public.

C. City staff meetings are not subject to public meetings requirements, and therefore staff meetings not attended by three or more City Council members need not be open to the public.

II. Public Notice of City Council Meetings. City Council meetings shall be held only after full and timely notice to the public. The official posting place for all public notices is the bulletin board located in the atrium at Civic Center South, 480 S. Allison Pkwy., but all notices shall also be posted on the City's website. Notice of a public meeting shall be considered full and timely when posted no less than twenty-four hours before the meeting.

POLICY 05.3 QUORUM

POLICY

A quorum of six or more City Council members must be present in order to conduct any business.

If, after lawfully convening a regular or special meeting of the City Council, less than six members of the City Council are present at the meeting and sitting in the space assigned to the City Council, the meeting is considered temporarily recessed. If after ten minutes six members of the City Council fail to be present at the site of the meeting and sitting in the space assigned to them the City Council meeting shall be formally adjourned. The only action that a group of less than six members of the City Council may take prior to adjournment is to set the date of the next meeting of the governing body.

Quorums for City Council committees or subcommittees shall be a majority of the membership of such committee.

AUTHORITY

Lakewood Home Rule Charter, Section 2.16.
C.R.S. 24-6-402(2) (b).
By adoption of the Policy and Procedures Manual.

PROCEDURE

A quorum consists of a simple majority; *i.e.*, a minimum of six of the eleven Council members must be present in order to hold a Regular or Special City Council Meeting. A quorum is the number of City Council members present at a formally convened meeting necessary for the City Council to conduct business.

Notwithstanding this quorum requirement, any discussion of public business, i.e. a matter that will be formally acted upon by the City Council, involving three or more members of the City Council, is considered a public meeting subject to the Open Meetings Law because the business of the governing body is being discussed in anticipation of the matter being presented to the City Council for action even if no formal action may be taken at the time of the discussion.

POLICY 05.4 ATTENDANCE

POLICY

Attendance at City Council Meetings. City Council members are expected to serve the public by attending all meetings of the full City Council for the entire length of the meeting regardless of the form of the meeting. ~~regular, special meetings and study sessions.~~ Absences equal to or greater than 30%, during the calendar year may be cause for removal from the City Council in accordance with the City Home Rule Charter and Municipal Code. ,~~ and require a vote of not less than three-fourths of all members of the City Council.~~ Briefly leaving a meeting for less than ten minutes shall not be considered an absence from the meeting but may be recorded in the minutes for purposes of establishing quorum.

Attendance at committee meetings. Failure to attend City Council committee meetings may result in the chair of such committee requesting that the Mayor visit with the absentee council member to assess their ability to uphold their responsibilities associated with such committee membership and determine solutions including removal from the committee. Alternatively, committee members may seek approval of any absences from the chair of such committee.

AUTHORITY

Lakewood Home Rule Charter, Section 2.15.
Lakewood Municipal Code 2.13, 2.05.010 and 2.05.020(B).
By adoption of the Policy and Procedures Manual.

PROCEDURE

Attendance at meetings other than regular or special meetings, study sessions, workshops or the City Council member's assigned committee meetings is at the discretion of the individual City Council member.

Notification of an absence should be made by email to the Mayor or Committee Chair ~~City Council~~ and the City Clerk prior to the meeting. The City Clerk shall notify the City Council by email prior to the meeting of any absences from meetings of the full governing body of which the Clerk has been informed.

POLICY 05.5 PREPARATION FOR CITY COUNCIL MEETINGS

POLICY

The position of a City Council member is a demanding one. It is the overall responsibility of each member of the City Council to prepare for meetings and engage in relevant community conversations outside of scheduled meetings. Specific preparation for each meeting of the City Council is critical to assure the most effective meeting of the governing body.

1. City Council members should, if possible, avoid surprising their colleagues or staff. To the maximum extent possible, City Council members should advise the Mayor and the City Manager in advance of any substantive issues, questions, or changes they intend to bring up at the public meeting which would likely require staff research and response. This refers to issues and questions that the staff would not normally anticipate or have researched for that particular meeting.
2. City Council members should advise the Mayor and the City Manager in advance of pulling items from the consent calendar. This will allow the Mayor and City Manager to prepare staff for the additional steps necessary to address such item.
3. City Council members should be prepared for City Council and committee meetings, which includes having read all agendas and supporting documentation or presentations prior to the meeting.
4. City Council members should remember that they may each hold the floor for no longer than five minutes to ask questions or speak to a topic, then they must wait to request the floor again until after all other City Council members have been given the opportunity to hold the floor.
5. To the extent feasible, City Council members should stay abreast of regional issues affecting neighboring cities, counties, and the operations of other districts or agencies.

AUTHORITY

Charter § 2.1 and 2.10.

Bob's Rules of Order

~~**POLICY 05.5 SPECIAL MEETINGS**~~

~~**POLICY**~~

~~A "Special Meeting" is a meeting held at other than the designated dates and times of a Regular Meeting and may be scheduled either by vote of the City Council at a Regular Meeting or by a "Notice of Special Meeting."~~

~~**AUTHORITY**~~

~~Lakewood Home Rule Charter, Section 2.15.~~

~~Lakewood Municipal Code 2.02.010(B).~~

~~**PROCEDURE**~~

~~A Special Meeting may be scheduled either by majority vote of the City Council at a Regular Meeting or by a "Notice of Special Meeting" signed by the Mayor and three Council members and delivered to all Council members at least 24 hours in advance of the Special Meeting. Council members must sign a receipt for the Notice of Special Meeting, which is to be returned to the City Clerk for record keeping~~

~~purposes.~~

POLICY 05.6 EXECUTIVE SESSIONS

POLICY

Any regular or special City Council meeting may be recessed to an executive session in the manner set forth in C.R.S. 24-6-402(4). ~~section 2.15 of the City's home rule charter.~~

No formal action may be taken in executive session. When a matter discussed in executive session is later discussed on the record at an open meeting, the record must indicate what policy considerations and motivations led to any final decision.

Whenever possible, the intention to call for an executive session~~s~~, including the topic and statutory citation which authorizes such executive session, should be identified on the City Council agenda for the meeting during which the City Council ~~will~~ seeks to recess into executive session. Notwithstanding the foregoing, executive sessions may be held even if not identified on the official agenda if a motion for executive session is approved by a ~~supermajority of at least eight (8) City Council members~~ a vote two-thirds of those present.

Topics for executive sessions shall be limited to those set forth in C.R.S. 24-6-402(4) and the City's home rule charter.

AUTHORITY

Lakewood Home Rule Charter, Section 2.15(c).
C.R.S. 24-6-402(4).

PROCEDURE

To recess into executive session, a City Council member must make a motion for an executive session and must announce the topic of discussion including (i) the specific citation to the Open Meetings law authorizing the topic for executive session; and (ii) identification of the particular matter to be discussed in as much detail as possible without compromising the purpose for which the executive session is authorized. The City Council shall then vote on whether to hold the executive session as described~~, and a supermajority of at least eight (8) members shall be required to approve the motion~~. The motion is approved upon an affirmative vote of two-thirds of the City Council members present. The minutes of the regular or special meeting must reflect the topic of discussion at the executive session.

The agenda setting process is an ongoing, combined effort by the City Council and the City Manager (or designees).

The City Council sets the legislative priorities for the year during the annual planning ~~session~~ retreat and ~~that agenda~~ ~~informs~~ those legislative priorities are the basis of the City staff's work assignments, and City Council initiatives and agenda items. Agenda items and staff direction are also created through study sessions, committees, and requests for council action including requests for legislative modification.

~~The City Manager, through the course of managing City business and under direction of the City Council, puts forth agenda items creates and establishes City Council agendas that ensure the efficient and uninterrupted services that our citizens expect and depend on.~~

The Mayor and Mayor Pro-Tem, under direction of the City Council, and advice of the City Manager, manage the City Council agenda and calendar to ensure that the annual planning retreat goals are met, and new agenda items are accommodated.

The Mayor and/or Mayor Pro-Tem should advise the Council regularly on the progress of the agenda setting.

AUTHORITY

By adoption of the Policy and Procedures Manual.

PROCEDURE

City Council members may submit requests for agenda items during the annual planning ~~session~~ retreat and throughout the year by filling out a request form and submitting such to the City Manager (or designee) ~~for review~~. At a minimum, the request must include the requestor's name, a description of the request, the goal or objective that the request aims to fulfill, and a self-assessment as to the priority level of such request. Requests submitted outside of the annual planning retreat should also be self-assessed as to whether such request should supersede resources otherwise directed to the previously adopted policy priorities.

Requests submitted outside of the annual planning ~~session~~ retreat are added to the next in progress* regular City Council meeting agenda and meeting packet under General Business for consideration by the City Council as a whole. The timing of the submittal determines when the request will be reviewed by the City Council. Meeting agendas and packets must be posted to the City website 10 days prior to the meeting, and so depending on when the request was submitted the request may not be reviewed at the next regular City Council meeting but instead may be reviewed at the one after.

New requests for agenda items that are approved by the City Council ~~to move forward~~ for future action will either be prioritized by action of the City Council, or will ~~then~~ be evaluated and prioritized by administrative staff against the backlog of open, prioritized items.

~~All of the City Council's priorities as established at the annual planning retreat will be added to an online dashboard that provides visibility to key information and organization of priorities and key information.~~ The City Council priorities dashboard ~~will~~ may be updated to include ~~also list~~ unprioritized "parking lot" items that have been approved for such addition by the City Council as priorities. General items that are outside of the City Council's approved list of priorities will be prioritized by the City Manager in relation to available City resources. ~~that await prioritization~~ ~~at a later date.~~

POLICY 05.8 PROCEDURAL RULES/PUBLIC COMMENT/LEGISLATIVE PUBLIC HEARINGS

POLICY

Procedural Rules. The Mayor may, at ~~his/her~~ their discretion, seek to modify procedural rules and/or guidelines for a particular hearing or meeting, as long as the modification is within the guidelines of ~~Robert's Rules of Order~~ the adopted rules of Parliamentary Procedure and isn't in conflict with any constitutional provisions, law, statute, or ordinance or resolution heretofore or hereafter adopted. Members of the City Council who wish to make electronic presentations, such as PowerPoint slides or videos regarding any topic on the agenda must submit such presentation to the Mayor by noon the day of the meeting so that the Mayor will be aware of how much time to allot to each agenda item.

It is the Mayor's responsibility to uphold the decorum of the meeting which includes prohibiting actions which are disruptive to the conduct of the business of the meeting.

Check-in. The City Council will conduct a check-in at 11:00 p.m. and every hour thereafter to evaluate whether it is appropriate to continue the meeting. The City Council may extend the time for public comment during a check-in or may determine that due to the lateness of the hour the meeting should be recessed or adjourned.

City Council Meetings include both closed and limited public forums. City Council meetings are generally closed public forums (i.e. limited to the work of the City Council) unless the agenda specifically establishes a limited public forum by designating an opportunity for members of the public to participate in a City Council meeting. Limited public forums will be recognized for both Public Hearings and for General Public Comment. The time, place and manner of how limited public forums will be carried out shall be either as set forth within this policy or as otherwise indicated upon the face of the meeting agenda or by the Mayor. Speakers should note that public comment opportunities are provided for the City Council to **receive** public comment. Public comment is not an opportunity for the members of the City Council to engage with the public.

Nothing within this policy shall be construed to require the City Council to subject itself and its citizens to online commenters taking advantage of an online opportunity to violate the limited public forum established by the City Council. The goal of public comment is to create a welcoming, safe and inclusive community for all that encourages members of the community to share any concerns with the City of a local government nature and for the public to influence and provide community expertise on items on the agenda and any other community issues.

Public Hearings.

Legislative/Administrative Public Hearings. The primary role of the City Council is legislative which involves the development and implementation of laws and policies that apply citywide. Examples of legislative action include the adoption of new zoning regulations or amendments to Municipal Code provisions concerning parking restrictions on public streets. With legislative actions, a legislative/administrative public hearing is held prior to the City Council taking final action on the legislative item. During a legislative/administrative public hearing anyone can comment on the merits of the proposed law or provide any other general testimony. The "legislators", i.e. the members of the City Council, may also obtain evidence from other sources, including resident input received in person, by phone or email. City Council Members may consider any of that evidence, as well as their own personal beliefs, in deciding whether to adopt the legislation.

Testimony/commentary from the Public at Legislative Public Hearings. A public hearing shall be scheduled for every item shown on the agenda upon which the City Council will take formal and final action by Ordinance or Resolution at which members of the public may present up to three minutes of testimony on the item. Resolutions consolidated upon the Consent Agenda for final action may be testified upon by the public during the public hearing to accept testimony on consent agenda items. Ordinances placed on the consent agenda for notification purposes are not available for public testimony. The time for speakers to speak may be reduced from three minutes to less than three minutes for items with an unusually large public interest to allow for all interested parties to have an opportunity to provide testimony.

Online Viewers at Public Hearings. Online viewers of regular or special City Council meetings will be given the opportunity to provide verbal testimony at such public hearings upon the topic set forth upon the face of the agenda if they register in advance with the City Clerk prior to noon of the day of the meeting. Any departure from the specific topic of the public hearing is outside the scope of the public hearing and not permissible. If the Mayor ends any virtual commentary that has gone outside the scope of the public hearing the Mayor will make a brief statement for the record explaining why the speaker's commentary was impermissible. The advance registration system for online public comment/testimony will be established by the City Clerk's Office.

Time limits at Public Hearings for HOA representatives and Registered Neighborhood Associations. A formally selected representative of a registered neighborhood association or neighborhood organization who wishes to speak in-person shall be allowed to speak for up to ten minutes at a public hearing regarding a matter on the agenda impacting such neighborhood association.

*"Pooling" agreements***.** In-person speakers may use "pooling" of time to add to the length of their comment period for public hearings. To *pool time so as to be granted up to ten minutes of speaking time, a speaker must present the names of* at least three individuals who are present in the audience when the speaker is speaking and who wish to yield their three minutes to the speaker. All supplemental three people must be present when the speaker is called to speak. At any time before the speaker is called to approach the podium, an individual who yielded such person's time to the speaker may reclaim the time from the speaker and may preserve it for later in the meeting. Such action shall terminate the pooling agreement.

Virtual attendees shall not be afforded the opportunity to pool time as there is no ability to verify that other individuals are present and seeking to pool their speaking time. Additionally, virtual attendees have the alternative of submitting a statement via the City's online comment portal which does not have a limitation on the length of a comments submitted.

General Public Comment.

Public comment. The City's agenda will provide an opportunity for general public comment (public comment) at which members of the public may present up to three minutes of commentary on any matter of a public nature. Public Comment will be scheduled on the agenda in a manner that best balances the needs of the City Council to hear from members of the community with the needs of the City Council to complete the business of the City established by the meeting agenda and the community at large to be able to be present to hear the entire meeting. The Public Comment period may be established as a single agenda item or may be split to allow for 1) some public comment earlier in the meeting, and 2) all remaining public comment to be heard later in the meeting. Speakers are only permitted to speak one time during public comment irrespective of whether public comment is divided into two places on the agenda.

Public Comment may be made in-person at a regular meeting of the City Council or via an online forum for written public comment or an established City telephone messaging system. Online viewers of City Council meetings will be directed to use the City's online written public comment portal or the telephone messaging system.

- ~~Public Comment shall be limited to sixty (60) total minutes during any regular or special meeting of the City Council, but that limit may be extended by action of the City Council.~~
- ~~When~~ Dividing Public Comment ~~is divided~~ on the agenda shall include an ~~the~~ initial period of public comment ~~will be~~ scheduled prior to the consent agenda. This initial period of public comment allows for up to ten total in-person speakers to provide their public comment earlier in the meeting and shall prioritize those with special needs. There shall be no pooling of time. Speaking during this initial period of public comment requires signing up to speak with the City Clerk in advance of the meeting.
- Public Comment scheduled for after the business of the meeting is not specifically limited to any time frame but it may be limited by the 11:00 p.m. check-in during any regular or special meeting of the City Council.
- TIME, PLACE, and MANNER restrictions upon public comment. The City Council wants to provide an opportunity for all members of the community to speak to the City Council in the manner in which they are most comfortable. The City Council also recognizes that allowing general comment to continue significantly past 11:00 p.m. restricts the ability of most of the community at large to be present at or listen to that part of the city council meeting that follows general public comment. Therefore, after 11:00 p.m. public speakers may be required to submit their public comments through the City's online public comment forum rather than make a verbal presentation.

Recordings of Public Comment shall be kept by the City Clerk's Office. Public comment that is provided in-person or through the City's verbal messaging system will not be transcribed (i.e. recorded verbatim) but will be summarized for the City's official record. Public comment that is received via the City's online public comment forum will be copied verbatim into the City's official record.

Presentation aides. To conform to the Open Meeting law and Open Records Act no handouts or other reference items will be accepted by the City Council during a City Council meeting. Any items to be shared with the City Council for reference at a City Council meeting must be provided to the City Clerk in advance of the meeting. Electronic presentations for use by members of the public during any public hearing or public comment period, such as PowerPoint slides or video, must be submitted to the City Clerk's office by noon the day of the meeting to assure that such items will conform to the technology available. Any items provided to the City Clerk will be published for viewing both by the City Council and the public. Presentations at a study session must be related to the study session topic on the agenda.

AUTHORITY

Lakewood Municipal Code 2.02.020(B).

PROCEDURE

~~Establishing procedural rules and/or guidelines for a particular hearing or meeting:~~

In the event a hearing or meeting is anticipated to be particularly contentious or public participation at a hearing or meeting is expected to be extensive, or for other good cause, the Mayor, at the commencement of such hearing or meeting, may propose a procedural rule and/or guideline change.

A simple majority is required to change the order of the agenda at the request of a member of the City Council. Additionally, the Mayor is authorized to modify the agenda at the Mayor's discretion. The basis for making any modification to the agenda shall be stated for the record. ~~A two-thirds majority is required for limiting council debate and for making any changes to public comment, outside of the aforementioned exception, such as modifying speaking time pooling guidelines.~~

Motions. Any council member may make or second a motion to approve, amend, table or continue any matter before the City Council in accordance with the adopted Rules of Parliamentary Procedure. To assure that the agenda is carried out in the most efficient manner possible, the Mayor Pro Tem will generally make the necessary motions regarding matters placed on the agenda for action.

General Business.

General business is an agenda item intended to allow members of the City Council to present an item to the City Council for proposed future action.

Any member of the City Council may make a motion during general business to seek consensus from the body as a whole to schedule an item for future action or send the matter for review by an appropriate advisory body. No off-agenda item may be introduced for final action by the City Council during general business.

Requests submitted as a Request for Council Action outside of the annual planning retreat are added to the next regular City Council meeting agenda and meeting packet under General Business for consideration by the City Council as a whole. A Request for Council Action that is placed on the agenda may be forwarded to all members of the City Council in advance of a meeting to educate the members of the City Council about the proposed action. No final action may be taken upon a matter placed on the agenda as a result of a request for a Council Action.

Members of the City Council and staff may participate in the discussion of an off-agenda item or a matter submitted through the Council Action Request process and shall attempt to identify and request any additional support that will be needed to prepare the matter for further action.

AUTHORITY

By adoption of the Policy and Procedures Manual.

PROCEDURE

Motions and seconds shall be made in accordance with ~~Robert's Rules of Order/~~the adopted Rules of Parliamentary Procedure.

POLICY 05.10 FIRST READING ORDINANCES

POLICY

All proposed ordinances shall be introduced only at a Regular, Special or Emergency Meeting of the City Council.

Upon an affirmative vote of a majority of those members present, such proposed ordinance shall be ordered published in full and a day and time fixed for a public hearing at a subsequent regular, special, or emergency meeting of the City Council.

AUTHORITY

Lakewood Home Rule Charter, Section 7.4(1) (2).

PROCEDURE

"First reading" ordinances shall be introduced by reading the title of the ordinance. First reading ordinances shall be placed on the Consent Agenda to be approved for publication and scheduled for second reading.

POLICY 05.11 SECOND READING ORDINANCES/OPTIONAL THIRD READING

POLICY

Second Reading. The "second reading" of each ordinance shall be at a Regular, Special or Emergency Meeting held not less than 10 days after publication of the ordinance after the first reading.

Action Upon an Ordinance. The standard action upon an agenda item shall follow that set forth in the adopted Rules of Procedure. Typically, the actions shall be as follows:

1. Agenda Item "Opened". The Clerk reads the item into the agenda.
2. Presentation. Information relevant to the agenda item is presented.
3. Public Hearing. Members of the public are invited to provide testimony/commentary upon the item pursuant to the scope of a limited public forum.
4. Discussion. The members of the City Council ask questions of staff or other topic area experts to collect information needed to decide a possible course of action.
5. Motion and second. The Mayor Pro Tem, or another member of the body, states the motion. Another member of the body seconds the motion to indicate the governing body should act upon the item.
6. Debate. The members of the City Council engage in debate regarding the proposed action. Members may deliberate or express support or opposition to the motion. Debate may result in amendment, continuation, postponement, or a vote on the motion.
7. Vote. A vote is taken on the motion. If the motion fails, the Body may return to discussion and a potential new motion or may move on to the next agenda item.

Referendum Period. Upon approval by the City Council, publication by title, publication of amendments and signature by the Mayor:

- regular ordinances shall be subject to a thirty day referendum period before becoming effective;
- ordinances that zone, rezone, or change any zoned district shall be subject to a forty-five day referendum period before becoming effective;
- emergency ordinances established in accordance with Charter Section 7.4(b) shall take effect and be in force immediately, although approval must be by two-thirds of all members of the City Council.

Ordinances not subject to a Referendum Period. In accordance with Charter Section 13.2 (a) the following ordinances shall not be subject to a referendum period:

- any emergency ordinance;
- an ordinance fixing the rate of general property taxation for any year;
- an ordinance related to the issuance of securities;
- an ordinance adopting the budget;
- an ordinance making an appropriation for the ensuing fiscal year;
- an ordinance calling for a special election;
- an ordinance levying special assessments,

- an ordinance initiating improvement districts.

Optional Third Reading of Ordinance Procedure. Upon motion and approval by a majority of the City Council, any ordinance may be moved to a third reading following the public hearing. Adding a third reading is intended to provide an opportunity for the City Council to consider implications of substantial amendments and to consider any public comment received at second reading. If the public hearing is completed at second hearing then no further public hearing is required to be scheduled for such item if moved to a third reading unless directed by the City Council. If the public hearing is not completed before the end of the meeting where the ordinance is set for second reading then it will be completed at third reading before any action by the City Council. At the third reading the City Council may take any lawful action, including but not limited to discussion, consideration, amendment and voting upon the adoption of the ordinance.

Ordinance Amendment Process: Any member of the City Council may submit proposed amendments to any ordinance to the City Manager, or designee, for distribution to the City Council as a whole. Members of the City Council are encouraged to work with the City Attorney's Office to review proposed amendments in advance of distribution. Amendments may also be submitted verbally or written during the consideration of an ordinance in conformance with the adopted rules of procedure.

AUTHORITY

Lakewood Home Rule Charter, Section 7.4(3) and 13.2(a).

PROCEDURE

"Second reading" ordinances shall be introduced by reading the title of the ordinance.

After a public hearing held in accordance with the procedures therefor, the City Council may consider and vote upon adoption of the ordinance. Adoption requires an affirmative vote of a majority of City Council members present and voting, except that no ordinance shall be adopted with less than five affirmative votes of such majority. ~~Notwithstanding the foregoing, no emergency ordinance shall be adopted with less than a supermajority of at least eight (8) City Council members voting to approve.~~

Emergency ordinances shall require a separate section setting forth the emergency nature of such ordinance and must be approved by two-thirds of all members of the City Council regardless of how many members of the City Council are present and voting. An ordinance presented as an emergency ordinance that receives the approval of a majority of the City Council members present but does not receive approval of at least eight members of the City Council shall be deemed adopted as a regular ordinance and not an emergency ordinance.

Upon adoption, the ordinance shall be published by title or may be published in full, except that if published only by title any amendment to such ordinance shall be included in the publication.

POLICY 05.12 RECORDING MEETINGS/MEETING MINUTES

POLICY

All Regular Meetings, Special Meetings, Study Sessions, and Workshops of the City Council should be recorded. Video recording is required for Regular Meetings, Special Meetings and Study Sessions, while audio recordings shall be acceptable for Workshops.

In addition, a written record of each meeting in summary form (action minutes) shall be prepared by the City Clerk for City Council approval at a later Regular Meeting and shall serve as the official minutes of the meeting. All audio and video recordings will be permanently retained by the City Clerk.

Public testimony or public comments that are made verbally may be summarized into a document that is incorporated into the meeting agenda/packet but not made part of the official meeting minutes as the minutes are limited to "action minutes". The City Clerk's Office is not equipped to transcribe verbal statements, nor clarify what comments provided in any form are intended to convey. Therefore, members of the public may review the video or audio recordings to hear the speaker to better understand what the speaker was seeking to convey. However, for recording purposes, to avoid conflicts between what was stated/written and what the commenter meant to say/write, all public comments will be collected in the most efficient and practical manner available which shall be a summary of verbal comments or a copy/paste of written comments. All comments shall be combined into a document labeled "Public Comments of {date} meeting of the Lakewood City Council". Such document shall be attached to the associated meeting minutes.

AUTHORITY

C.R.S. 24-6-402(2) (d) (1).

PROCEDURE

The City Clerk is responsible for retaining audio/video recordings and developing and retaining meeting summaries in perpetuity.

Meeting minutes will be completed within 30 days as a best practice with the understanding that staff workload on more critical work items may necessitate a delay.

The City Council votes will be recorded on the City website within 14 days of the meeting as a best practice with the understanding that staff workload may necessitate a delay.

POLICY 05.13 QUASI-JUDICIAL HEARINGS

POLICY

When the City Council considers an application to rezone specific property, and for any other hearing in which the City Council is required to reach a decision by applying established standards or criteria to the particular facts of the matter before it, the City Council shall act in a "quasi-judicial" capacity.

A quasi-judicial public hearing is a public hearing that includes rules established to protect the due process rights of the person/entity holding a protected interest.

- Holding an ownership interest in a specific parcel of property (right to develop, change in zoning, etc.) is an example of a protected interest.
- The members of the City Council acting as hearing officers need to be able to clearly articulate the basis for their decision.
- The individual holding the protected interest must have a full opportunity to be heard on the subject and must have an opportunity to hear and respond to any information which is the basis for the decision impacting their protected right.
- Neither a hearing body, nor any of its members, are permitted to have predecided the matter based upon information not made known in the public hearing (ex parte communications)

AUTHORITY

Snyder v. City of Lakewood, 542 P.2d 371 (1975).
6-38 *Zoning and Land Use Controls* § 38.04 (2011).

PROCEDURE

When acting in a "quasi-judicial" capacity, the City Council acts as a panel of judges, applying established legal standards to the particular facts of an application or case, and makes an unbiased decision on the basis of evidence presented at a properly noticed public hearing. In quasi-judicial matters, City Council members must avoid participating if, in their own judgment, they cannot be objective in voting on the issue because of a financial conflict of interest, bias, prejudgment or "ex parte" contact. Council members are encouraged to contact the City Attorney's Office for assistance in evaluating any potential disqualifying event.

During a quasi-judicial proceeding, the City Council receives evidence from witnesses. Such witnesses may include City staff, the applicant and members of the public. Evidence may be presented in the form of individual testimony or may be demonstrative in nature.

POLICY 05.14 RESOLUTIONS

POLICY

Resolutions shall be used to approve or adopt various items, rules, regulations and other matters of a generally non-permanent nature, such as contracts, proclamations, general policies and other documents, and matters identified by charter or ordinance. Resolutions cannot enact legislation or amend or supersede any duly enacted law, whether local or otherwise, except as may be expressly provided by applicable law.

AUTHORITY

Lakewood Home Rule Charter, Section 7.1 and 7.2.

PROCEDURE

Passage or adoption of resolutions (and motions) shall require an affirmative vote of a majority of Council members present and voting. There shall be a motion and a second and an opportunity for Council discussion in accordance with applicable rules.

POLICY 05.15 RECESSES/ADJOURNMENT

POLICY

Any City Council member may call for a recess or adjournment at any time during a regular, special or emergency City Council meeting or Study Session. The Mayor may adjourn a meeting at the conclusion of the agenda without taking a formal vote.

During any recess, City Council members must avoid discussion of the substantive issues that are before the Council, and must not take votes, make policy decisions or take any other action. City Council members may discuss general procedures for considering a particular substantive issue on that meeting's agenda.

AUTHORITY

By adoption of the Policy and Procedures Manual.

PROCEDURE

The request to recess or adjourn will be brought forth by a motion and a second, and may be approved by a simple majority.

If a meeting is adjourned and public comment on a matter set for public hearing (not public comment) was not concluded, when the meeting reconvenes all attendees who had previously signed up to speak on the topic and who did not get an opportunity to speak, ~~providing their name was called after three (3) hours after the start of the meeting,~~ will be granted the right to speak on the topic, if they so desire before further action on such item is taken by the City Council.

The city clerk ~~presiding officer~~ will, ~~as a practice, circle the names of persons signed up to speak and who did not respond when called upon, after the meeting has been underway for three (3) hours, so as to~~ make an official record of persons who will be eligible for speaking at a public hearing held at a future meeting should an adjournment and reconvening take place.

POLICY 05.16 ANNUAL PLANNING RETREAT

POLICY

Effective governance and fiscal prudence requires that City policy be developed from a long-range perspective in order to anticipate and effectively meet the needs and goals of the City over time. The Annual Planning Retreat of the City Council is established to provide an opportunity early in the fiscal year for the City Council to work collaboratively to establish annual policy priorities in conformance with the current and following year's budgets, and to work with the City's administrative staff to determine how and when such policies priorities shall be addressed. By setting aside time for a structured discussion away from the normal work environment, members of the City Council can explore issues in depth and exchange ideas with each other in a relaxed environment.

See "The Retreat as a Management Tool." ICMA. VOLUME 33 / NUMBER 1 JANUARY 2001 ITEM NUMBER E-43021. (https://icma.org/sites/default/files/308775_E-43021.pdf for additional information regarding the seven steps for successfully holding a City Council planning retreat.

AUTHORITY

Lakewood Home Rule Charter, Section 2.15(c).
C.R.S. 24-6-402(4).

PROCEDURE

Seven steps to success provided by ICMA.

1. Plan the retreat from beginning to end. Identify the goals of the retreat including the objectives for the meeting.
2. Designate a facilitator (preferably a neutral party trained and skilled in facilitation techniques). Develop an agenda.
3. Find an off-site location. Provide a comfortable environment with adequate refreshments that is conducive to work.
4. Agree on ground rules that promote a safe and courteous environment.
5. Encourage active participation throughout.
6. Be specific about follow-up. Develop an implementation plan that designates responsibility and timelines.

All of the City Council's priorities as established at the annual planning retreat will be added to an online dashboard. The dashboard shall be developed to provide public visibility about the establishment of the priority as well as key information about such priority. The dashboard will also indicate the prioritization of each of the established City priorities.

~~STUDY SESSION/WORK SESSION/ PLANNING SESSION/ SITE VISIT~~

~~POLICY~~

~~Study Sessions are used as a regular procedure to familiarize the Council members with detailed aspects of subjects on upcoming agenda items. This allows members of the City Council time to consider the topic fully before the item is brought before the City Council for formal action , thus saving valuable time in a Regular Council Meetings.~~

~~Public comment is permitted at study sessions providing the comments are pertinent to the meeting topic(s).~~

~~AUTHORITY~~

~~By adoption of the Policy and Procedures Manual.~~

~~PROCEDURE~~

~~Study Sessions are generally held at 7:00 p.m. on the first and third Monday evenings of the month, but the Council need not hold Study Sessions on every first and third Monday, and Study Sessions may be held at other times with the requisite public notice.~~

~~Public comment on each topic will be permitted immediately following each presentation on the specific topic and prior to City Council discussion.~~

CODE OF CONDUCT 06

POLICY 06.1 CODE OF CONDUCT

General Statement

The City Council recognizes ~~our~~ its duty is to serve ~~our community~~ Lakewood in a non-partisan manner, and to seek and respect the ideas and opinions of all stakeholders. The City Council encourages public participation in meetings and other forums and respects all comments and concerns.

General Conduct

The City Council shall endeavor to comply with the spirit, as well as the letter of all laws, Council mission statement and values, and shall act professionally, civilly, and with decorum. All Council members are equal and should be treated with equal respect.

Conduct at Council Meetings

At City Council Meetings, City Council Members shall:

- Address each other respectfully and give proper regard to the opinions of others.
- Be respectful of people's time and keep remarks brief and relevant.
- Avoid speeches and repetition.
- Focus on issues, not personalities.
- Hold the floor for no longer than five minutes to ask questions or speak to a topic, then they must wait to request the floor again until after all other City Council members have been given the opportunity to hold the floor.
- ~~Think critically and ask probative, not leading questions.~~
- ~~Question assumptions and consider multiple alternatives~~.
- Be fully informed before the meeting opens and carefully scrutinize agenda packets, including verifying information presented therein.
- Be familiar with the Lakewood Home Rule Charter, the Lakewood Municipal Code and the Council Policies and Procedures Manual and to ensure those and other guiding documents are followed.
- Avoid a "last comment" debate with, or criticism of, speakers or their comments. When appropriate, the presiding officer may ask staff to follow up on questions or other issues.
- Avoid interrupting Council members who have the floor and withhold questions until the speaker yields the floor.

Additional provisions concerning City Council Meetings:

- Only the presiding officer, not individual Council members, can interrupt a speaker during a presentation. Council members can request to speak if the speaker is off the topic or exhibiting behavior or language the Council Member finds disturbing.
- If the speaker becomes belligerent or disruptive, it is the responsibility of the presiding officer to focus the speaker and maintain the order and decorum of the meeting. It is never appropriate to belligerently challenge or belittle the speaker. No personal attacks of any kind, under any circumstance, will be tolerated. Be mindful of your body language in public meetings.
- The presiding officer shall be fair and equitable in allocating public speaking time to individual speakers.
- At the conclusion of a meeting agenda the Chair may adjourn the meeting without taking a vote.

Conduct in Public Meetings in General

At ~~Other~~ all Public Meetings and Non-Official Encounters, City Council Members Shall:

- Be respectful, fair and impartial with citizens, and shall listen, avoid interruptions and avoid arguments. Council members shall make no promises or inappropriate representations on behalf of the City or Council. Statements of personal opinions should be identified as such.
- When discussing City business with individuals or groups in non-official encounters, strive to present factual information and to avoid presenting opinion as fact.
- Practice civility, professionalism and decorum in discussions and debate. Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of a free democracy in action. This does NOT allow, however, Council Members to make belligerent, personal, impertinent, slanderous, threatening, abusive or disparaging comments.
- Respect the choice of voters by showing respect for all colleagues and their opinions. Council members must strive to consider the opinions of other members and to avoid disparaging or false comments about their peers. That is not to say that debate should be avoided, but it should be framed in a civil and respectful manner.

Conduct with Staff

When Interacting with City Staff, City Council Members Shall:

- Avoid discussing City business or raising questions with staff members, except while voicing general comments or questions at information-gathering meetings such as open house presentations.
- Be respectful and professional, and ~~should not~~ avoid interfering in job duties or giving direction to staff. Any concerns should be directed to City manager.
- Avoid public criticism of individual staff members.
- Do not intentionally seek political support from any City employees.

- Address requests for information or questions about issues and/or community concerns to the ~~relevant department head or other official contact person~~ City Manager's designee, who will be the Deputy City Manager unless otherwise designated in writing to the members of the City Council. Suggestions, policy issues, opinions and criticism should be kept between Council members and the Mayor, City Manager and/or City Attorney.
- Do not disrupt City staff from their jobs in order to have the Council member's individual needs met, whether the staff person is in a meeting, on the phone or engrossed in performing their job functions.

Conduct with Boards, Commissions, and Other Entities

When Interacting with Boards, Commissions and Other Entities, City Council Members Shall:

- Avoid inappropriate contacts, lobbying, or influence in regard to an agenda item up for action or report.
- Be clear about representing the City or personal interests. If a Council member appears before another governmental agency or organization to give a statement on an issue, the Council member must clearly state if his or her statement reflects personal opinion or is the official stance of the City.
- If the Council member is representing the City, the Council member must report the official City position on an issue, not a personal viewpoint.

POLICY 06.2 Harassment

POLICY

This policy applies to all members of the Lakewood City Council and Appointed Officials (defined herein as the City Manager, the City Attorney, and the Municipal Judge) in the performance of City governance or operations, at City-sponsored activities, and in all interactions between members of City Council, Appointed Officials, and City employees and contractors (defined herein as "Related Interactions").

AUTHORITY

By adoption of the Policy and Procedures Manual.

PROCEDURE

I. Purpose

It is the purpose of this policy to prevent unlawful harassment in City governance, operations, City-sponsored activities, and related interactions, and to provide a mechanism to accept, investigate, and resolve complaints of unlawful harassment against members of the Lakewood City Council and Appointed Officials. Members of the City Council and Appointed Officials are expected to understand and abide by the expectations set forth in this policy and to take appropriate measures to prevent and remedy unlawful harassment.

II. Harassment

The City of Lakewood is dedicated to, and promotes, a work environment that is free from unlawful discrimination and harassment for all of our employees, at every work location in the City, and in any work environment. To meet this goal the City Council strictly prohibits discriminatory practices, including sexual and other unlawful harassment. Any sexual or other unlawful harassment, whether verbal, physical, or environmental, is unacceptable and will not be tolerated in the performance of City governance, City operations, at City-sponsored activities, or in related interactions.

~~Actions, words, jokes, or comments based on an individual's race, color, religion, creed, national origin, religion, ancestry, sex, sexual orientation, gender identity, age, military service, veteran status, marital status, disability, or any other legally protected characteristic will not be tolerated. Any such harassment may violate the law and is strictly prohibited. This prohibition applies not only to the spoken or written word but also to e-mails, voicemails, text messages, social media posts, and other forms of communication that are about or may be seen by City Council members, Appointed Officials, or City employees or contractors.~~

SEXUAL HARASSMENT. Sexual harassment is defined as any unwelcome sexual advance, request for sexual favors, or other verbal or physical conduct of a sexual nature when:

1. Submission to the conduct is made either explicitly or implicitly a term or condition of an individual's employment;

2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting the individual; or

3. The conduct has the purpose or effect of unreasonably interfering with the individual's performance of their City-related function or of creating an intimidating, hostile or offensive environment in interactions with members of the City Council, Appointed Officials, or City employees or contractors.

Sexual harassment does not refer to behavior or occasional compliments of a socially acceptable nature. The types of behaviors that constitute sexual harassment may include, but are not limited to:

- Unwelcome sexual flirtations, advances or propositions;
- Derogatory, vulgar, or graphic written or oral statements regarding one's sexuality, gender or sexual experience;
- Unnecessary touching, patting, pinching, or attention to an individual's body;
- Physical assault;
- Unwanted sexual compliments, innuendoes, suggestions, or jokes; or
- The display of sexually suggestive pictures or objects.

Inappropriate sexual conduct that could lead to a claim of sexual harassment is expressly prohibited by this policy. This policy prohibits opposite-sex and same-sex harassment. Sexual harassment may be obvious or subtle. Some behavior that is appropriate in a social setting may not be appropriate in the performance of City governance, City operations, at City-sponsored activities, or in Related Interactions.

GENERAL HARASSMENT. To "Harass" or general "harassment" means to engage in, or the act of engaging in, any unwelcome physical or verbal conduct or any written, pictorial, or visual communication directed at an individual or group of individuals because of that individual's or group's membership in, or perceived membership in, a protected class, resulting in an employer refusing to hire, or to discharge, to promote or demote, to harass during the course of employment, or to discriminate in matters of compensation, terms, conditions, or privileges of employment against any individual otherwise qualified because of disability, race, creed, color, sex, sexual orientation, gender identity, gender expression, marital status, religion, age, national origin, or ancestry, which conduct or communication is both 1) subjectively offensive to the individual alleging harassment and 2) objectively offensive to a reasonable individual who is a member of the same protected Class. The conduct or communication need not be severe or pervasive to constitute a discriminatory or an unfair employment practice under this section and is a violation if:

(i) submission to the conduct or communication is explicitly or implicitly made a term or condition of the individual's employment;

(ii) submission to, objection to, or rejection of the conduct or communication is used as a basis for employment decisions affecting the individual; or

(iii) the conduct or communication has the purpose or effect of unreasonably interfering with the individual's work performance or creating an intimidating, hostile, or offensive working environment.

Petty slights, minor annoyances, and lack of good manners do not constitute harassment unless the slights, annoyances, or lack of manners, when taken individually or in combination and under the totality of the circumstances, meet the standards set forth in this section.

III. Reporting

It is the City Council's policy to encourage the reporting of all perceived incidents of unlawful harassment, regardless of the position of the alleged offender. The City Council will take all steps that are necessary to enforce this policy.

If a member of City Council, an Appointed Official, or a City employee or contractor believes ~~he or she~~ themselves to have ~~has~~ been unlawfully harassed by persons subject to this policy, or if such person is aware of potentially unlawful harassment of others by persons subject to this policy, that person shall promptly submit a written or verbal complaint of such harassment to a Receiving Official, as defined in this Section IV.

Anyone complaining of harassment pursuant to this policy may submit ~~his or her~~ their complaint to any one of the following: the City Manager, Deputy City Manager, the City Attorney's Office, or Director of ~~Employee Relations~~ Human Resources (collectively referred to as "Receiving Official"). If a member of City Council receives a harassment complaint, that member must report that complaint to a Receiving Official.

Persons complaining of harassment should provide as many details as possible, and should include the names of individuals involved, the names of any witnesses, dates and times of alleged occurrences, direct quotations when language is relevant, and any documentary evidence (such as notes, pictures, images, drawings, emails, text messages, etc.). Although an individual will not be penalized for a delay in filing a harassment complaint, prompt complaints are encouraged because memories are fresher and because they can help the City conduct a thorough investigation of complaints and to take timely action to address the alleged harassment.

IV. Investigations; Confidentiality; No Retaliation

A Receiving Official who receives a complaint of alleged harassment shall promptly forward that complaint to the Director of Human Resources who will commence an investigation of the complaint as soon as practicable. All such investigations shall be conducted in the following manner: the ~~Receiving Official~~ Human Resources Director will coordinate with the City Attorney's Office to retain an independent outside investigator (preferably a law firm that specializes in workplace harassment and investigations) to conduct an initial review of the complaint, including an interview with the complainant. If after the initial review the investigator finds that there are no grounds to conduct a full investigation of the complaint due to lack of evidence or such complaint failing to meet the requirements of this policy, the investigator will inform the Director of Human Resources of such finding and conclude the initial review. The Director of Human Resources and/or the investigator will follow up with the complainant to explain the determination as to the complaint.

If following an initial review the investigator finds that there are grounds to conduct an investigation of the complaint the investigator will conduct interviews with the complainant and other individuals with knowledge of relevant facts, and ~~to~~ will perform such other actions as are necessary to ensure a complete investigation of all allegations and a fair process for all involved. Once the investigation is deemed complete by the investigator ~~and the City Attorney's Office~~, the investigator shall prepare a written report indicating whether the allegations in the complaint are sustained or not sustained and shall provide such report to the City Attorney's Office to proceed with the steps described below in Section VI of this policy. If the complaint is against the City Attorney, City Council will engage outside counsel to coordinate the investigation, provide related legal advice to City Council, and otherwise fulfill the duties assigned to the City Attorney's Office in this paragraph with assistance from the ~~Employee Relations~~ Human Resources

Director as necessary. The City Council's goal is ~~to employ an~~ for the investigation process ~~that is~~ to be simple yet flexible enough to be applied in a wide range of circumstances.

Confidentiality and Open Records.

To the extent permitted by law, including the Colorado Open Records Act, complaints of harassment, reports of investigation on such complaints, and any action taken thereon shall remain confidential. However, some or all of the information may be disclosed as necessary, depending on the action taken on the complaint and any legal requirements.

No Retaliation.

The City Council prohibits retaliation against individuals for filing a complaint or for participating in an investigation of a complaint under this policy. Individuals who believe they have been subject to retaliation for filing a complaint or for participating in an investigation of a complaint must follow the complaint procedure outlined in Section IV of this policy. All such complaints will be investigated in accordance with this policy.

The investigator retained to investigate a complaint shall warn any person against whom a complaint of harassment has been made not to retaliate in any way against the person making the complaint, witnesses, or any other person providing information in connection with the investigation of the complaint of harassment.

V. The City Council's Response to Investigation of Harassment Complaints

The City Attorney's Office shall present the investigator's written report to the City Council in executive session if there are legal grounds to discuss such matter in executive session pursuant to C.R.S. 24-6-402(4). If there are no legal grounds to discuss this matter in executive session than an overview of the report shall be provided to the City Council. To protect the unintended disclosure of the identity of the complainant or witnesses the report itself shall not be distributed. The confidentiality of the overview provided to the City Council shall be determined on a case-by-case basis.

If the investigator determines that the facts and evidence support a finding that the complainant, or other, did suffer an act of harassment or sexual harassment the City Council may meet in executive session with the City Attorney to discuss potential legal ramifications to the City of such actions. The City Council may also consider the matter in an open session and direct any or all of the following actions in response to a finding that a complaint of harassment sexual harassment is sustained:

1. Adopt a resolution finding that an individual covered by this policy violated this policy;
2. Direct or encourage additional corrective training;
3. Such other action as is consistent with its authority under applicable state statutes, the City Charter, ordinances, resolutions, or rules and policies of the City Council.

In any case in which an investigator completes a full investigation of a complaint, a written record of any action taken on the complaint, or any determination to take no further action on the complaint, shall be prepared in consultation with the City Attorney's Office or such other legal counsel appointed by City Council in connection with a given complaint and kept with the report of investigation.

VI. Harassment Training

All members of City Council shall participate in harassment training every two years ~~in conjunction with the orientation provided to new City Council members~~.

COMMUNICATION AND CORRESPONDENCE 07

POLICY 07.1 CONSTITUENT REQUESTS

POLICY

City Council members should direct constituent requests to the City Manager's designee for entry into the *Request Lakewood Customer Service Center* system or forward the email to the Direct Response email address (DirectResponse@Lakewood.org).

All requests will be handled by the appropriate staff member who will respond to the constituent directly. Staff is strongly discouraged from ~~(and never~~ using~~e a~~ form letters when responding to Lakewood citizens~~)~~. A communication should be a direct response to each citizen's concerns.

AUTHORITY

By adoption of the Policy and Procedures Manual.

PROCEDURE

City Council members can access the Direct Response program by sending an email to DirectResponse@Lakewood.org or by calling 303-987-7134. If this system or telephone number are updated this policy may be updated without further action by the City Council to reflect updated contact information or updated websites.

The City Manager's designee will enter the information into Request Lakewood, ensuring it is sent to the appropriate staff member for a response. The City Manager's designee monitors responses and ensures that staff personally communicates with the resident within 10 days and that the Council members in the Ward where the issue is located are notified of the outcome.

Requests for items to be placed on the agenda or for City staff to attend Ward meetings should be made using the online forms.

Comments regarding a zoning or rezoning case are treated differently because of the quasi-judicial nature of such cases. Comments sent to the Planning Director or Planning staff will be included in the case file that goes to the City Council.
Residents can be directed to submit issues using Request Lakewood 24/7 at www.Lakewood.org/RequestLakewood, or by using the mobile app. Residents needing contact information for City Council are directed to the City Council contact web page where they can view phone numbers and email addresses.

Periodic reports are generated from the Direct Response program for citywide issues and the email which is sent to all City Council members electronically. The periodic reports are intended to ensure City Council members receive the same information for frequent requests or concerns covering the same subject matter.

TRAVEL 08

POLICY 08.1 TRAVEL AND EXPENSE REIMBURSEMENT

POLICY

The Mayor and City Council Members are eligible for payment or reimbursement for travel to conferences, classes and trainings as part of their Council-related duties. It is the intent of the City Council to ensure each Council member takes advantage of training and professional development opportunities to broaden his/her understanding of municipal government and enhance his/her role as an elected official. Funds are budgeted by the City Manager and the Mayor annually to accommodate reasonable travel for conferences, seminars, workshops and other training opportunities. Council members are encouraged to attend events such as the National League of Cities (NLC) annual congressional trip, NLC committee appointment travel, the Colorado Municipal League (CML) annual conference and local educational courses offered by CML and the Denver Regional Council of Governments (DRCOG). Other conferences and classes will be considered on a case-by-case basis depending upon budgetary constraints. Council members may be reimbursed for all reasonable and necessary expenses incurred for Council-related duties.

AUTHORITY

By adoption of the Policy and Procedures Manual and Administrative Regulation III/A.

PROCEDURE

Authorization for Training and Travel

1. The annual City Council travel budget is reviewed and approved by the City Council during the annual budget process.
2. Travel by members of the City Council must be reviewed for applicability to the responsibilities of a city counselor, prior to making travel arrangements. This review is performed by the Mayor with the understanding that s/he will work to ensure and protect equity while staying within the overall budget.
3. A Council member who is nominated to a committee as a City representative shall outline duties, responsibilities and budgetary impacts to the Mayor prior to accepting such position that requires additional travel. The City Council budget coordinator should be notified of any committee appointments for budgetary purposes

4. City Council members are eligible to travel to local trainings and classes. Authorization by the Mayor is also necessary. Registration can be made through the Executive Assistant to the Mayor and City Manager.
5. Registration and travel arrangement can be made through the Executive Assistant to the Mayor and City Manager.
6. The Council member will be notified by the Mayor of any rejected travel requests.

Eligible Travel Expenses

1. **Registration**-Actual cost of registration, tuition and fees at a meeting, conference, training or convention will be paid for with authorization of travel. Registration will be paid for through the Executive Assistant to the Mayor and City Manager. The City will not pay for entertainment, social or extracurricular activities unless specifically related to the Council-member's position and approved in advance by the Mayor.
2. **Transportation**-The City will pay actual costs for bus travel, train travel, air travel and car rentals in advance. Airfare and transportation arrangements will be made by the Executive Assistant to the Mayor and City Manager.
    a. Receipts must be kept for any taxi, tolls and parking fees for reimbursement.
    b. If a Council member chooses to drive, rather than fly, actual miles driven to/from the event from the Lakewood Civic Center will be computed at the IRS' standard mileage rate and reimbursed at the conclusion of the trip. The maximum mileage reimbursement for the use of a personal vehicle cannot exceed the cost of the lowest available airfare.
    c. For an event that would typically be driven to, Council members will receive the IRS' standard mileage rate for miles to/from the event from Lakewood Civic Center. Mileage will also be granted to and from the airport.
    d. Rental car costs will be reimbursed for actual expenses incurred, including collision and comprehensive damage insurance coverage for the most economical vehicle. Any time a rental vehicle is kept beyond the duration of the event will not be reimbursed. Every effort should be made to arrange ground transportation and shuttle services to and from the airport to the point of destination without renting a car.
3. **Lodging**-Overnight lodging arrangements will be made by the Executive Assistant to the Mayor and City Manager and payment will be made in advanced. Only lodging for the dates of the event will be covered. The City will pay the single rate for lodging accommodations. When a spouse or guest accompanies a council member, the council member will be responsible for any additional charges.

4. **Meals**-Meal costs will be reimbursed based on actual receipts submitted. The City will pay additional costs for optional meal functions that are not included in the registration fee and for which the Council member would be expected to attend as a representative of the City. Meals for a spouse or traveling companion will not be covered.
5. **Advances**-Prior to travel, an advance will be given to each Council member for costs associated with traveling and incidentals. The amount of the advance will depend on the travel destination and purpose. Receipts are still required to be applied to the advance. If no receipts are submitted upon arrival, or if the advance is not used in its entirety, the advance or remaining balance must be returned.

Documentation and Reconciliation of Expenses

Costs will be reimbursed based on actual receipts submitted after the completion of the trip. The City will not reimburse the cost of alcoholic beverages. The expense statement must be reconciled within 30 days after the traveler returns from the trip. The traveler must sign the expense statement certifying that all expenditures are business related. All receipts must be submitted to the Executive Assistant to the Mayor and City Manager.

POLICY 08.2 GENERAL REIMBURSEMENT FOR EXPENSES

POLICY

Funds in the sum of $600.00 per City Council Member and $1800.00 for the Mayor shall be allocated annually to reimburse the Mayor and the members of the City Council for the regular costs of serving as an elected official. Reimbursements are anticipated to include Ward Meeting expenses, travel expenses associated with attendance at events located within the metropolitan area surrounding the City of Lakewood, and such council member's own meal costs when meals are part of service as a city council member. Those funds not used in any calendar year shall revert to the general fund.

AUTHORITY

By adoption of the Policy and Procedures Manual.

PROCEDURE

The procedure for reimbursing the general expenses of the Mayor and the City Council shall be pursuant to a policy approved by the Director of Finance. Such policy shall assure that all reimbursements conform to all applicable laws regarding reimbursements so that such funds may not be perceived as compensation of any kind.

Limitation on Out of Area Travel. It is the intention of the City Council that reimbursement funds be used for expenses generally incurred in the metropolitan region surrounding the City of Lakewood in carrying out the regular duties of a City of Lakewood elected official. Travel within the metropolitan area may more appropriately be reimbursed pursuant to Policy 08.1 when the event requires overnight stays, registration, or other participation costs. Expenses incurred for travel outside the metropolitan area shall be reimbursed pursuant to Policy 08.1.

Meals. Discretionary funds may be used for meals that are directly related to the responsibilities of the City Council. Expenditures for alcoholic beverages shall not be subject to reimbursement.

Non-reimbursable expenses.

- Reimbursement funds shall not be used in a manner that would violate the City's campaign finance law or any other law.
- Reimbursement funds shall not be used to reimburse for individual charitable contributions.
- Reimbursement funds shall not used in association with constituency communications in the ninety (90) days prior to any election date upon which individuals are running for a seat upon the City Council or up to thirty (30) days following such election.
- Reimbursement funds shall not be used to reimburse for postage costs or to send any card expressing holiday greetings.

ORGANIZATIONAL ADMINISTRATIVE REGULATIONS/APPENDIX

Administrative note: Policies for the following are in the process of being drafted to reflect the special circumstances that come into play by the fact that council members are not city employees. Once the policies are finalized, they will be incorporated as an Addendum or referenced as a separate document.

The policies include, but may not be limited to:

1. Administrative Regulation — I.T. Policies
2. VI/G Email Systems Usage Policy
3. VI/H Internet Access and Usage Policy
4. VI/E Systems Security Policies

ADDENDUM 1 MEETING SCHEDULE/ORDER OF BUSINESS

INFORMATION

Regular Council meetings are held on the second and fourth Monday's of each month, and Study Sessions are held the first and third Monday of each month, beginning at 7 PM unless the meeting has been cancelled for any reason (e.g., holiday).

The order of business, i.e., the agenda, is designed to best facilitate the discussion and decision-making process. An example agenda is shown below. See section 5.8 for details regarding when and how a meeting agenda can be altered.

EXAMPLE REGULAR MEETING AGENDA

1. Call meeting to order
2. Roll call, pledge of allegiance, and moment of silent reflection
3. Recognition, proclamations
4. ~~Public comment on items not appearing on the agenda~~ Statement of conflict of interest
5. Optional initial period for Public Comment (Policy 5.8)
6. Consent agenda
   a. Reading of ordinances on first reading (no public comment)
   b. Resolutions
   c. Approval of Council Meeting Minutes
   d. Acceptance of minutes of boards and commissions
7. Public ~~comment~~hearing on consent agenda items of final action, prior to Council vote
8. Discussion (and potential vote) on any item/s pulled from consent agenda
9. Ordinances on second and final reading/Public hearing

~~9.~~10. Public comment on items not appearing on the agenda (Policy 5.8)
~~10.~~11. General business
~~11.~~12. Ward Reports
~~12.~~13. Adjournment

11:00 p.m. check-in to determine whether the agenda is on target for completion at a time when members of the public will be able to hear all of the business of the City, including Ward Reports.

EXAMPLE STUDY SESSION MEETING AGENDA

1. Call meeting to order
2. Roll call

3. Presentation
4. Public Comment
5. Repeat 3-4 for any additional, scheduled presentations
6. Committee Reports
7. Adjournment

STAFF MEMO

DATE OF MEETING: AUGUST 12, 2024 / AGENDA ITEM NO. 6

To: Mayor and City Council

From: Travis Parker, Chief of the Sustainability & Community Development Branch

Subject: **PRIVATE ACTIVITY BONDS TO METRO WEST HOUSING**

SUMMARY STATEMENT: City Staff requests that City Council approve a resolution authorizing the assignment of $9,728,783 of Private Activity Bond allocation to Metro West Housing Solutions (MWHS). MWHS generally uses the bond allocation to develop affordable housing for Lakewood low- and moderate-income persons and families.

BACKGROUND INFORMATION: Private Activity Bonds (PABs) are tax-exempt bonds that can be issued by others on behalf of a local (or state) government for the purpose of providing special financing benefits for qualified privately developed projects.

BUDGETARY IMPACTS: No impact. The State further authorizes the City to transfer its Private Activity Bond allocation to others. These tax-exempt bonds are issued to investors. The underwriter uses the proceeds to make a loan to the project and the project pays back the loan. Investors get repaid with tax-exempt interest.

STAFF RECOMMENDATIONS: Staff supports the assignment of these allocations to MWHS.

ALTERNATIVES: If the City chooses not to assign their allocation, the Lakewood portion of the allocation "cap" will revert to the State.

PUBLIC OUTREACH: This item has been promoted through the regular communication channels to be considered by the Lakewood City Council.

NEXT STEPS: If resolution is approved, by Council, City Staff would carry out the technical elements of transferring the PAB allocation to MWHS.

ATTACHMENTS: 1. Resolution 2024-37

REVIEWED BY: Kathleen E. Hodgson, City Manager
Benjamin B. Goldstein, Deputy City Manager
Alison McKenney Brown, City Attorney

2024-37

A RESOLUTION

AUTHORIZING THE ASSIGNMENT TO THE HOUSING AUTHORITY OF THE CITY OF LAKEWOOD, COLORADO d/b/a METRO WEST HOUSING SOLUTIONS OF THE CITY OF LAKEWOOD'S 2024 PRIVATE ACTIVITY BOND VOLUME CAP ALLOCATION PURSUANT TO THE COLORADO PRIVATE ACTIVITY BOND CEILING ALLOCATION ACT

WHEREAS, the City of Lakewood (the "City") is authorized by and empowered under the laws of the State of Colorado (the "State") to issue revenue bonds for the purpose of providing affordable housing opportunities to low-and moderate-income persons and families;

WHEREAS, the Internal Revenue Code of 1986, as amended (the "Code"), restricts the amount of tax-exempt bonds ("Private Activity Bonds") which may be issued in the State to provide affordable housing opportunities and for certain other purposes;

WHEREAS, pursuant to the Code, the Colorado legislature adopted the Colorado Private Activity Bond Ceiling Allocation Act, Part 17 of Article 32 of Title 24, Colorado Revised Statutes (the "Allocation Act"), providing for the allocation of the State Ceiling among the Housing Authority of the City of Lakewood, Colorado d/b/a Metro West Housing Solutions (the "Authority") and other governmental units in the State, and further providing for the assignment of such allocations from such other governmental units to the Authority;

WHEREAS, pursuant to an allocation under Section 24-32-1706 of the Allocation Act, the City received a direct allocation of the 2024 State Ceiling in the amount of $9,728,783 (the "2024 Allocation");

WHEREAS, the City has determined that, in order to increase the availability of adequate affordable housing for low-and moderate-income persons and families within the City and elsewhere in the State, it is necessary or desirable to provide for the utilization of all or a portion of the 2024 Allocation;

WHEREAS, the City has determined that the 2024 Allocation, or a portion thereof, can be utilized most efficiently by assigning it to the Authority to issue Private Activity Bonds for the purpose of financing one or more multi-family rental housing projects for low-and moderate-income persons and families or to issue Private Activity Bonds for the purpose of providing affordable housing options to low-and moderate-income persons and families ("Revenue Bonds"); and

WHEREAS, the City Council of the City has determined to assign all of its $9,728,783 2024 Allocation to the Authority, which assignment is to be evidenced by an Assignment of Allocation between the City and the Authority (the "Assignment of Allocation").

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lakewood, Colorado, that:

SECTION 1. Approval. The assignment to the Authority of all $9,728,783 of the City's 2024 Allocation be and hereby is approved.

SECTION 2. Authorization. The City Manager of the City is hereby authorized and directed to execute and deliver the Assignment of Allocation on behalf of the City and to take such other steps or actions as may be necessary, useful or convenient to effect the aforesaid assignment in accordance with the intent of this Resolution.

SECTION 3. Effective Date. This Resolution shall become effective immediately upon its adoption by the City Council.

INTRODUCED, READ AND ADOPTED by a vote of ___ for and ___ against at a hybrid regular meeting of the City Council on August 12, 2024, at 7 o'clock p.m., at the Lakewood Civic Center, 480 South Allison Parkway, Lakewood, Colorado.

____
Wendi Strom, Mayor

ATTEST:

____
Jay Robb, City Clerk

APPROVED AS TO FORM:

____
Alison McKenney Brown, City Attorney

STAFF MEMO

DATE OF MEETING: AUGUST 12, 2024 / AGENDA ITEM NO. 7

To: Mayor and City Council

From: Max Kirschbaum, Director of Public Works

Subject: **NATIONAL ELECTRICAL CODE (NEC) ADOPTION**

SUMMARY STATEMENT: City staff is presenting for City Council review and approval an Ordinance to amend Chapter 14.06 of the Lakewood Municipal Code by adopting by reference the 2023 Edition of the National Electrical Code as that Code has been adopted by the State of Colorado Electrical Board.

BACKGROUND INFORMATION: The Electrical Board of the State of Colorado (Board) is empowered by the State to establish regulations that govern and are binding on every person and legal entity authorized to practice, offer to practice, or perform electrical services or electrical contracting in Colorado, including all contractors performing electrical work in Lakewood and all electrical inspectors employed by the City of Lakewood (City). Pursuant to this authority, the Board has recently adopted the National Electrical Code, 2023 Edition, (2023 NEC) as the minimum standard governing the planning, laying out, and installing or the making of additions, alterations and repairs in the installation of wiring apparatus and equipment for electric, light, heat and power in Coloardo. Additionally, the Board recently mandated that all electricians abide by, and all municipalities adopt and enforce the 2023 edition of the NEC. All electrical licensees and registrants under Title 12, Article 115 of the Colorado Revised Statutes are charged with having knowledge of and following all requirements provided for in the Board's adopted regulations.

An updated version of the NEC is promulgated every three years by the National Fire Protection Association. It is likely that the Board will adopt the newest version each time it is updated by the publisher.

By adopting the 2023 NEC, including all amendments adopted by the Board, all local amendments to the NEC will now be removed as these are no longer deemed necessary by staff.

Overall, the changes from the 2020 NEC to the 2023 NEC are minor in nature and primarily consist of clarifications regarding enforcement or technology changes such as solar, kitchen island outlets, and providing a level working surface for electricians at electrical service working areas.

Pursuant to LMC 14.12.020(G)(2), the Board of Appeals met on July 31, 2024, to review the proposed updates to the National Electrical Code. The Board of Appeals has approved a Resolution recommending the adoption of the 2023 NEC, as adopted by the Electrical Board of the State of Colorado, as the electrical code of the City of Lakewood.

BUDGETARY IMPACTS: There are no budgetary impacts associated with the adoption of this ordinance.

STAFF RECOMMENDATIONS: Staff recommends adopting this ordinance. By adopting the NEC in this manner, the City will maintain compliance with the State's mandated code adoption, thereby eliminating confusion for contractors doing work within the City regarding code requirements. The update will also keep City electrical inspectors in good standing with the State of Colorado Electrical Board by aligning City and State requirements. Finally, this update will eliminate the need for City Council approval and adoption of the State's mandated code with each code update cycle.

ALTERNATIVES: The alternative to adoption of this ordinance is to continue with the current City process for code adoption. The current process involves preparation of council documents and presentation of State mandated code without amendment to City Councial for approval.

PUBLIC OUTREACH: This item has been promoted through the regular communication channels to be considered by the Lakewood City Council.

NEXT STEPS: Second Reading August 26th, 2024

ATTACHMENTS:
1. Ordinance O-2024-20
2. Board of Appeals Resolution 2024-001

REVIEWED BY: Kathleen E. Hodgson, City Manager
Benjamin B. Goldstein, Deputy City Manager
Alison McKenney Brown, City Attorney

O-2024-20

AN ORDINANCE

AMENDING CHAPTER 14.06 OF TITLE 14 OF THE LAKEWOOD MUNICIPAL CODE AND ADOPTING BY REFERENCE THE 2023 NATIONAL ELECTRICAL CODE AS ADOPTED BY THE STATE OF COLORADO BY AND THROUGH THE STATE ELECTRICAL BOARD

WHEREAS, the City of Lakewood, Colorado (the "City") previously adopted by reference the 2020 Edition of the National Electrical Code of the National Fire Protection Association, which is codified in Chapter 14.06 of the Lakewood Municipal Code (the "LMC");

WHEREAS, pursuant to Colorado Revised Statute §12-115-107(2)(a), the State Electrical Board (the "Board") is empowered to adopt rules setting the minimum standards governing the planning, laying out, and installing or the making of additions, alterations, and repairs in the installation of wiring apparatus and equipment for electric, light, heat, and power in Colorado;

WHEREAS, the Board recently adopted the National Electrical Code, 2023 Edition (the "2023 NEC"), as the minimum standard governing the planning, laying out, and installing or the making of additions, alterations, and repairs in the installation of wiring apparatus and equipment for electric, light, heat, and power in Colorado;

WHEREAS, City staff desires to amend LMC Chapter 14.06 to adopt by reference the 2023 NEC as adopted by the State of Colorado by and through the Board as the Electrical Code of the City;

WHEREAS, the Board of Appeals was established by LMC section 14.12.010 and is charged with reviewing proposed additions, changes, or amendments to the City's codes including the National Electric Code and to make recommendations to City Council with respect to the adoption thereof;

WHEREAS, the Board of Appeals has reviewed, considered, and recommended for adoption by reference the 2023 NEC as adopted by the State of Colorado by and through the Board;

WHEREAS, approval of this ordinance on first reading is intended only to confirm that the City Council desires to comply with the City's Charter by setting a public hearing to provide City staff and the public the opportunity to present evidence and testimony regarding the proposal; and

WHEREAS, approval of this ordinance on first reading does not constitute a representation that the City Council, or any member of the City Council, supports, approves, rejects or denies the proposal.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Lakewood, Colorado, that:

SECTION 1. Chapter 14.06 is hereby amended as follows:

14.06.010 - National Electrical Code Adopted by Reference.

The National Electric Code of the National Fire Protection Association, 2023 Edition, as adopted and amended by the State of Colorado, by and through the State Electrical Broad, is hereby adopted by reference as the Electrical Code of the City of Lakewood.

14.06.020 - Purpose of ~~National~~ Electrical Code.

The purpose of the ~~National~~ Electrical Code is to safeguard persons in buildings and their contents from hazards arising from the use of electricity for lights, heat, power, radio, signaling, and for other purposes. The subject matter of the code is the regulation of electrical conductors and equipment installed within or on public and private buildings and other premises, including yards, carnival and parking lots, industrial substations, mobile homes, and recreational vehicles, as well as the conductors that connect the installations to a supply of electricity and other outside conductors adjacent to a premises.

~~14.06.040 – Amendments to certain provisions of the National Electrical Code.~~

~~Certain provisions of the National Electrical Code, as indicated in this section, are hereby amended.~~

~~A. The provisions of Annex H shall include the following amendments:~~

~~1. Section 80.15 is deleted.~~

~~2. Subsection 80.19(D) is deleted.~~

~~3. Subsection 80.19(E) is replaced with the following:~~

~~*80.19(E) Fees.* Fees and valuation for permits required by this code shall be as specified in Section 14.01.060 of the Lakewood Building Code.~~

~~4. Subsection 80.23(B) is deleted.~~

~~5. Section 80.27 is deleted.~~

14.06.030 - Penalties for violations of the ~~National~~ Electrical Code.

A. Any person who violates any of the provisions of the code adopted by this chapter or fails to comply therewith, or who violates or fails to comply with any order made thereunder, or who builds in violation of any detailed statement of specifications or plans submitted and approved thereunder or any certificate or permit issued thereunder, and from which no appeal has been taken, or who fails to comply with such an order, as affirmed or modified by the Board of Appeals or by a court of competent jurisdiction, within the time fixed in this chapter, shall jointly and severally, for each and every violation and noncompliance respectively, be subject to the penalties set forth in Section 1.16.020. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue, and all such persons shall be required to correct or remedy such violations or deficits within a reasonable time, and when not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense.

B. The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

SECTION 2. This Ordinance shall take effect thirty (30) days after final publication.

SECTION 3. All provisions of Title 14 of the LMC not expressly amended hereby shall remain unaltered by this Ordinance and in full force and effect.

SECTION 4. If any provision of this Ordinance is found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this Ordinance that can be given effect without the invalid portion, provided that such remaining portions or application of this Ordinance are not determined by the court to be inoperable.

I hereby attest and certify that the within and foregoing ordinance was introduced and read on first reading at a hybrid regular meeting of the Lakewood City Council on the 12th day of August, 2024; published by title in the Denver Post and in full on the City of Lakewood's website at www.lakewood.org, on the 15th day of August, 2024; set for public hearing to be held on the 26th day of August, 2024; read, finally passed and adopted by the City Council on the 26th day of August, 2024; and signed by the Mayor on the __ day of August, 2024.

Wendi Strom, Mayor

ATTEST:

Jay Robb, City Clerk

APPROVED AS TO FORM:

Alison McKenney Brown, City Attorney

RESOLUTION NO. 2024-001
RESOLUTION OF CITY OF LAKEWOOD BOARD OF APPEALS

WHEREAS, the City of Lakewood, Colorado (the "City") previously adopted by reference the National Electrical Code, 2020 Edition, of the National Fire Protection Association, which is codified in Chapter 14.06 of the Lakewood Municipal Code (the "LMC");

WHEREAS, pursuant to Colorado Revised Statute §12-115-107(2)(a), the State Electrical Board is empowered to adopt rules setting the minimum standards governing the planning, laying out, and installing or the making of additions, alterations, and repairs in the installation of wiring apparatus and equipment for electric, light, heat, and power in Colorado;

WHEREAS, the State Electrical Board recently adopted the National Electrical Code, 2023 Edition, (the "2023 NEC") as the minimum standard governing the planning, laying out, and installing or the making of additions, alterations, and repairs in the installation of wiring apparatus and equipment for electric, light, heat, and power in Colorado;

WHEREAS, City staff desires to amend the LMC Chapter 14.06 to adopt by reference the 2023 NEC as the electrical code of the City;

WHEREAS, the Board of Appeals was established by LMC section 14.12.010 and is charged with reviewing proposed additions, changes, or amendments to the City's codes, and to make recommendations to City Council with respect to the adoption thereof;

WHEREAS, on July 31, 2024, the Board of Appeals held a public hearing to discuss the proposed amendments to LMC Chapter 14.06 to adopt by reference the 2023 NEC as the electrical code of the City; and

WHEREAS, the City has complied with all notice requirements in Title 14.

NOW, THEREFORE, BE IT RESOLVED by the Board of Appeals of the City of Lakewood, Colorado that:

1. Section 1. The Board of Appeals has reviewed, considered, and recommended for adoption the 2023 NEC as currently adopted, modified or readopted by the State of Colorado.

2. Section 2. The adoption of the 2023 NEC will promote the health, safety, and welfare of the inhabitants of the City.

3. Section 3. Adoption of the 2023 NEC is desirable and necessary in light of local conditions prevailing within the City and the Denver metropolitan area pursuant to

14.12.020(G)(1).

Motion was made by COMMISSIONER Douglas Porter and seconded by COMMISSIONER John Barnhart to RECOMMEND the adoption of the Code which passed by a vote of _ to _. The roll having been called, the vote of the Lakewood Board of Appeals was as follows:

Robert Ramsour - absent
John Barnhart - yes
Dennis Mateski - yes
Jason Summers - yes
Douglas Porter - yes

NAME, CHAIRMAN

Berta Saracino, Secretary of the Board of Appeals

CERTIFICATION

I, BERTA SARACINO, Secretary to the City of Lakewood Board of Appeals, do hereby certify that the foregoing is a true copy of a resolution duly adopted by the Lakewood Board of Appeals at a Public Hearing held in Lakewood, Colorado, on the 31st day of July 2024 as the same appears in the minutes of said meeting.

July 31/2024
Date approved

Berta Saracino, Secretary to the Board of Appeals

MINUTES
REGULAR MEETING OF THE CITY COUNCIL
CITY OF LAKEWOOD

7:00 PM **June 24, 2024**

Minutes are not a verbatim transcription, but rather an attempt to capture the intent of the speaker by the City Clerk.

ITEM 1 – CALL TO ORDER

Mayor Strom called the hybrid meeting to order at 7:11 p.m.

ITEM 2 – ROLL CALL

Councilors Present:	Mayor Wendi Strom Rich Olver, (Virtual) Rebekah Stewart Dave Rein Jeslin Shahrezaei Jacob LaBure Paula Nystrom Roger Low Glenda Sinks
Absent:	Sophia Mayott-Guerrero Isabel Cruz
Others in attendance:	Kathy Hodgson, City Manager Alison McKenney Brown, City Attorney Jay Robb, City Clerk Bernadette Salazar, Deputy City Clerk

Full and timely notice of this City Council meeting had been given and a quorum was present.

ITEM 3 – PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited, and the audience remained standing for a moment of silent prayer.

ITEM 4 – STATEMENT OF CONFLICT OF INTEREST

Mayor Strom read the Statement of Conflict of Interest.

CONSENT AGENDA
ORDINANCES ON FIRST READING

City Clerk Robb read the Consent Agenda into the record.

ITEM 5 – RESOLUTION 2024-31 – A RESOLUTION RECOGNIZING THE OUTSTANDING SERVICE OF CITY ATTORNEY ALISON MCKENNEY BROWN AND AUTHORIZING A SALARY PERFORMANCE INCREASE IN ACKNOWLEDGMENT THEREOF

ITEM 6 – APPROVING MINUTES OF THE CITY COUNCIL MEETINGS

A) CITY COUNCIL SPECIAL MEETING APRIL 22, 2024
B) CITY COUNCIL REGULAR MEETING APRIL 22, 2024
C) CITY COUNCIL REGULAR MEETING MAY 13, 2024

END OF CONSENT AGENDA

Public Comment received via Lakewood Speaks: 0

James Mace, Ward 1, addressed Council regarding Council meeting minutes.

Mayor Pro Tem Shahrezaei made a motion to approve the consent agenda. The motion was seconded.

VOTE TO APPROVE THE CONSENT AGENDA

	AYES	NAYS		AYES	NAYS
STROM	X		LABURE	X	
OLVER	X		NYSTROM	X	
MAYOTT-GUERRERO		ABSENT	LOW	X	
STEWART	X		CRUZ		ABSENT
REIN	X		SINKS	X	
SHAHREZAEI	X				
			TOTAL	9	0

Result: The motion passed.

City Clerk Robb read Item 7 into the record.

ORDINANCES ON SECOND READING
AND PUBLIC HEARINGS

ITEM 7 – ORDINANCE O-2024-13 – SETTING THE SALARIES OF MUNICIPAL COURT JUDGES

Public Comment received via Lakewood Speaks: 0

Mayor Strom opened the public hearing at 7:33 p.m.

Mayor Pro Tem Shahrezaei made a motion to approve ordinance O-2024-13.
The motion was seconded.

Mayor Strom closed the public hearing.

VOTE TO APPROVE ORDINANCE O-2024-13

	AYES	NAYS		AYES	NAYS
STROM	X		LABURE	X	
OLVER	X		NYSTROM	X	
MAYOTT-GUERRERO		ABSENT	LOW	X	
STEWART	X		CRUZ		ABSENT
REIN	X		SINKS	X	
SHAHREZAEI	X				
			TOTAL	9	0

Result: The motion passed.

City Clerk Robb read Item 8 in the record.

ITEM 8 – ORDINANCE O-2024-14 – AUTHORIZING A SUPPLEMENTAL APPROPRIATION OF GENERAL FUNDS TO THE 2024 ANNUAL BUDGET IN THE AMOUNT OF $1,230,300 AND AUTHORIZING THE EXPENDITURE OF THESE FUNDS BY THE DIVISION OF COMMUNITY RESOURCES FOR THE CITY MATCH PAYMENT REQUIRED TO INSTALL SOLAR PANELS ON THE ROOF AND PARKING CANOPY OF THE WHITLOCK RECREATION CENTER

Public Comment received via Lakewood Speaks: 0

Mayor Strom opened the public hearing at 7:36 p.m.

Mayor Pro Tem Shahrezaei made a motion to approve ordinance O-2024-14. The motion was seconded.

Councilors asked questions and discussed the proposed ordinance with Senior Sustainability Planner Jeff Wong.

Mayor Strom closed the public hearing.

VOTE TO APPROVE ORDINANCE O-2024-14

	AYES	NAYS		AYES	NAYS
STROM	X		LABURE	X	
OLVER	X		NYSTROM	X	
MAYOTT-GUERRERO		ABSENT	LOW	X	
STEWART	X		CRUZ		ABSENT
REIN	X		SINKS	X	
SHAHREZAEI	X				
			TOTAL	9	0

Result: The motion passed.

City Clerk Robb read Item 9 into the record.

ITEM 9 – **<u>ORDINANCE O-2024-15</u> –** AUTHORIZING THE PURCHASE OF REAL PROPERTY LOCATED AT 1211-1215 QUAIL ST., 1303 OAK ST., AND 10811 W. COLLINS AVE. FOR PROPERTY TO EXPAND THE PUBLIC WORKS MAINTENANCE FACILITIES, AND ACCEPTANCE OF A DEED(S) THEREFORE

Public Comment received via Lakewood Speaks: 1 (see attached)

Director of Public Works Max Kirschbaum gave a brief presentation on this item.

Mayor Strom opened the public hearing at 7:41 p.m.

<u>Nina Hoffer, Ward 3</u>, spoke in support of the proposed ordinance.

Mayor Pro Tem Shahrezaei made a motion to approve ordinance O-2024-15.
The motion was seconded.

Councilors asked questions and discussed the proposed ordinance with Director Kirschbaum.

Mayor Strom closed the public hearing.

VOTE TO APPROVE ORDINANCE O-2024-15

	AYES	NAYS		AYES	NAYS
STROM	X		LABURE	X	
OLVER	X		NYSTROM	X	
MAYOTT-GUERRERO		ABSENT	LOW	X	
STEWART	X		CRUZ		ABSENT
REIN	X		SINKS	X	
SHAHREZAEI	X				
			TOTAL	9	0

Result: The motion passed.

City Clerk Robb read Item 10 into the record.

ITEM 10 - ORDINANCE O-2024-16 – AUTHORIZING THE CITY OF LAKEWOOD TO ACQUIRE CERTAIN REAL PROPERTY (INCLUDING A BUILDING AND SURFACE LOTS AT 7898 AND 8000 W. COLFAX AVE IN LAKEWOOD, CO, 80214) SUBJECT TO CONTINGENCIES AND APPROVALS RELATING TO A COLORADO DEPARTMENT OF LOCAL AFFAIRS GRANT FOR THE PURCHASE, RENOVATION, AND OPERATION OF A NAVIGATION CENTER TO SERVE THE UNHOUSED

Public Comment received via Lakewood Speaks: 3 (see attached)

Mayor Strom opened the public hearing at 8:24 p.m.

Karen Sweeney Tucker, Ward 1, spoke in support of the proposed ordinance.

Mayor Pro Tem Shahrezaei made a motion to approve ordinance O-2024-16. The motion was seconded.

Councilors asked questions and discussed the proposed ordinance with Director of Planning Travis Parker

Mayor Strom closed the public hearing.

VOTE TO APPROVE ORDINANCE O-2024-16

	AYES	NAYS		AYES	NAYS
STROM	X		LABURE	X	
OLVER		X	NYSTROM	X	
MAYOTT-GUERRERO		ABSENT	LOW	X	
STEWART	X		CRUZ		ABSENT
REIN	X		SINKS	X	
SHAHREZAEI	X				
			TOTAL	8	1

Result: The motion passed.

City Clerk Robb read Item 11 in the record.

ITEM 11 - ORDINANCE O-2024-17 – ADOPTING TITLE 10, CHAPTER 38, OF THE LAKEWOOD MUNICIPAL CODE ESTABLISHING A PILOT PROGRAM FOR RESTRICTED RESIDENTIAL PARKING AREAS WITHIN THE CITY OF LAKEWOOD, COLORADO

Public Comment received via Lakewood Speaks: 4 (see attached)

Mayor Strom opened the public hearing at 8:34 p.m.

Marianne Ortiz, Representing the Applewood Valley Association, spoke in support of the proposed ordinance.

Margaret Muff, Ward 1, spoke in support of the proposed ordinance.

Liz Brewer, Ward 3, spoke in support of the proposed ordinance

Nadine Peiter, Ward 2, spoke in support of the proposed ordinance.

Mayor Strom closed the public hearing.

Mayor Pro Tem Shahrezaei made a motion to approve ordinance O-2024-17. The motion was seconded.

Councilors asked questions and discussed the proposed ordinance with Director Kirshbaum and Transportation Engineer Mike Whitaker.

Councilor Sinks made a motion to amend section 10.38.070(a) to reduce the threshold to 70% instead of 80%. The motion was seconded.

VOTE TO AMEND ORDINANCE O-2024-17 SECTION 10.38.070(A)

	AYES	NAYS		AYES	NAYS
STROM	X		LABURE	X	
OLVER	X		NYSTROM	X	
MAYOTT-GUERRERO		ABSENT	LOW	X	
STEWART	X		CRUZ		ABSENT
REIN	X		SINKS	X	
SHAHREZAEI	X				
			TOTAL	9	0

Result: The motion passed.

Councilor Low made a motion to amend section 10.38.070(a) to insert after “signed by one owner” of line 3 “or resident who is a lawful lessee on a lease of 30 days or longer in duration” and to strike all that follows in clause (a) after “~~are in favor of the establishment of an RRPA”~~ and replace it with “in all cases, in the event an RPP is established, for any household with an owner who loves off-site and leases to a resident tenant, both the owner and the tenant shall be eligible to receive separate permits and supplemental regulations or implementation by the city shall address how permits shall be reallocated when a change occurs to the lease.”. The motion was seconded.

VOTE TO AMEND ORDINANCE O-2024-17 SECTION 10.38.070(A)

	AYES	NAYS		AYES	NAYS
STROM	X		LABURE	X	
OLVER	X		NYSTROM	X	
MAYOTT-GUERRERO		ABSENT	LOW	X	
STEWART	X		CRUZ		ABSENT
REIN	X		SINKS	X	
SHAHREZAEI	X				
			TOTAL	9	0

Result: The motion passed.

Councilor Rein made a motion to amend section 10.38.070(c)(iii) to strike the words "event" or "festival". The motion was seconded.

VOTE TO AMEND ORDINANCE O-2024-17 SECTION 10.38.070(C)(III)

	AYES	NAYS		AYES	NAYS
STROM	X		LABURE	X	
OLVER	X		NYSTROM	X	
MAYOTT-GUERRERO		ABSENT	LOW	X	
STEWART	X		CRUZ		ABSENT
REIN	X		SINKS	X	
SHAHREZAEI	X				
			TOTAL	9	0

Result: The motion passed.

VOTE TO APPROVE ORDINANCE O-2024-17 AS AMENDED

	AYES	NAYS		AYES	NAYS
STROM	X		LABURE	X	
OLVER		X	NYSTROM	X	
MAYOTT-GUERRERO		ABSENT	LOW	X	
STEWART	X		CRUZ		ABSENT
REIN	X		SINKS	X	
SHAHREZAEI	X				
			TOTAL	9	0

Result: The motion passed.

City Clerk Robb read Item 12 into the record.

ITEM 12 - <u>ORDINANCE O-2024-18</u> – AMENDING LAKEWOOD MUNICIPAL CODE CHAPTER 10.63.010 TO AUTHORIZE PARKING ENFORCEMENT OFFICIALS TO ISSUE MUNICIPAL PARKING SUMMONSES AND COMPLAINTS FOR VIOLATIONS OF THE LAKEWOOD TRAFFIC CODE PERTAINING TO PARKING ON THE PUBLIC RIGHTS OF WAY

Public Comment received via Lakewood Speaks: 2 (see attached)

Mayor Strom opened the public hearing at 9:29 p.m.

Mayor Strom closed the public hearing.

Mayor Pro Tem Shahrezaei made a motion to approve ordinance O-2024-18. The motion was seconded.

Councilors asked questions and discussed the proposed ordinance with Director Kirshbaum and Transportation Engineer Mike Whitaker.

VOTE TO APPROVE ORDINANCE O-2024-18

	AYES	NAYS		AYES	NAYS
STROM	X		LABURE	X	
OLVER	X		NYSTROM	X	
MAYOTT-GUERRERO		ABSENT	LOW	X	
STEWART	X		CRUZ		ABSENT
REIN	X		SINKS	X	
SHAHREZAEI	X				
			TOTAL	9	0

Result: The motion passed.

ITEM 13 - GENERAL PUBLIC COMMENT

Public Comment received via Lakewood Speaks: 8 (see attached)

Public Comment received in person:

Linda Botwan pooled time with Joseph Rhodes, Nick Strobel, and Paige Riley and addressed Council regarding the Gaza cease-fire request.

Mike Pott, Ward 4, pooled time with Linda Pangle, Matt Pangle, and Philip and addressed Council regarding the Gaza cease-fire request.

Patrick Fox addressed Council regarding various community issues.

Carrie Murphy, Ward 2, addressed Council regarding affordable housing and a request to issue a Gaza cease-fire.

Mark Skinner, Ward 1, addressed Council regarding Vivian Elementary School.

Sarah Nelson, Ward 1, addressed Council regarding the Gaza cease-fire request.

Karen Haldenstein, Ward 5, addressed Council regarding the Gaza cease-fire request.
Charles Hendrix addressed Council regarding the Gaza cease-fire request.

Shelby Fuchs, Ward 3, addressed Council regarding the Gaza cease-fire request.

Joan Postin addressed Council regarding Vivian Elementary School.

Josh Comden addressed Council regarding the Gaza cease-fire request.

Karen Sweeney Tucker, Ward 1, addressed Council regarding the Gaza cease-fire request.

Bradley Bruce, Ward 2, addressed Council regarding the Gaza cease-fire request.

Flanders Lorton addressed Council regarding the Gaza cease-fire request.

Cassandra Brunson addressed Council regarding the Gaza cease-fire request.

ITEM 14 - GENERAL BUSINESS

There were no items under general business.

ITEM 15 - EXECUTIVE REPORT

City Manager Kathy Hodgson provided an update regarding the tour of the Tin Cup slash facility, postponement and rescheduling of the Board of Education, and staffing updates in the City Manager's Office.

ITEM 16 - MAYOR AND CITY COUNCIL REPORTS

Mayor Strom and the Councilors provided updates regarding upcoming Ward meetings and other events in the community.

ITEM 17 - ADJOURNMENT

Seeing no further business, Mayor Strom adjourned the meeting at 10:47 p.m.

Respectfully submitted,

____
Jay Robb, City Clerk

Public Comment received via Lakewood Speaks

ITEM 9 – ORDINANCE O-2024-15 – AUTHORIZING THE PURCHASE OF REAL PROPERTY LOCATED AT 1211-1215 QUAIL ST., 1303 OAK ST., AND 10811 W. COLLINS AVE. FOR PROPERTY TO EXPAND THE PUBLIC WORKS MAINTENANCE FACILITIES, AND ACCEPTANCE OF A DEED(S) THEREFORE

Chana Guy· Jun 20, 2024 · 10:02am

Great presentation, thank you! These men and women are the foundation to keeping our city safe, maintained, clean, organized and running smoothly. They deserve proper and efficient facilities and equipment. Working hard, in all kinds of elements, and at all hours 24/7, 365 days a year I have the upmost respect for them and believe they should have as safe of a work environment as possible. Please, give them what they so desperately need - and deserve!

ITEM 10 – ORDINANCE O-2024-16 – AUTHORIZING THE CITY OF LAKEWOOD TO ACQUIRE CERTAIN REAL PROPERTY (INCLUDING A BUILDING AND SURFACE LOTS AT 7898 AND 8000 W. COLFAX AVE IN LAKEWOOD, CO, 80214) SUBJECT TO CONTINGENCIES AND APPROVALS RELATING TO A COLORADO DEPARTMENT OF LOCAL AFFAIRS GRANT FOR THE PURCHASE, RENOVATION, AND OPERATION OF A NAVIGATION CENTER TO SERVE THE UNHOUSED

Glen Newell · Jun 21, 2024 · 10:22am
I think it's really important to note that this is just the continuation of the original plan, which was already approved: the money for this project by the City was accepted with the understanding (and if I recall correctly, with the explicit requirement) that owning the building is part of the process, and that's what the money is to be used for. For what it's worth, I think the entire process is less than clear to many. I hope that the staff and city council will clarify this process a bit, if only to avoid misunderstanding and additional struggle with public perception- which bears the repeating of the source of the funds- which is not a *new* source (from new taxes, or taken from the existing budget) but *extra, bonus funding for things that make Lakewood a better place for all of us*.

Joshua Comden · Jun 18, 2024 · 9:25am
This is a great opportunity for Lakewood to mitigate homelessness and its effects! While the Navigation Center is only a piece of the solution, having the city own the property instead of a profit-seeking entity will help secure it as an available community resource, regardless of the commercial property market. Its location is perfect for reaching those living on the street where the situation is most concentrated. Thus, I support using DOLA funds to purchase the property.

Kevin M Wright · Jun 16, 2024 · 7:55pm
Why does the City of Lakewood all the sudden need to expand the Navigation Center. Are there that many tax-paying residents of the City of Lakewood all the sudden having a problem paying to stay in their current housing situation. I thought the last 8 years or more when we had a Mayor and City Council that approved many new apartment complexes in the city of Lakewood. I thought they were doing this so that residents of Lakewood would have affordable housing. If

that is not the case, why did we build all these new apartment complexes? How many years has

the Navigation Center been around in Lakewood? Why does it need to expand? Are people using the Navigation Center tax paying residents of Lakewood? If non-residents of Lakewood are using the Navigation Center, why is it a problem that tax paying residents of Lakewood must pay for. I say vote no for the DOLA Money from the State of Colorado and Vote no to expand the Navigation Center if it being used by people who are not residents and citizens of Lakewood.

ITEM 11 – <u>ORDINANCE O-2024-17</u> – ADOPTING TITLE 10, CHAPTER 38, OF THE LAKEWOOD MUNICIPAL CODE ESTABLISHING A PILOT PROGRAM FOR RESTRICTED RESIDENTIAL PARKING AREAS WITHIN THE CITY OF LAKEWOOD, COLORADO

Lenore Herskovitz · Jun 24, 2024 · 11:39am
This ordinance permits a second pilot program. I would like to advocate for the neighborhood adjacent to Colorado Christian University since the school continues to expand its growth without providing adequate parking. Several years ago they opened a 300+ unit dormitory removing 80 parking spaces in the process. Although an agreement with Mile High Church supplies additional parking, this is located on the other side of the campus and as a result has done little to alleviate the congestion. In October, the Armstrong Building will open creating more complications. For years we have attempted to come up with solutions with little success. Parking permit programs have been used around other college campuses including Boulder, Ft.Collins and Denver to name a few. Since two of the streets bordering CCU prohibit parking (Alameda to the South and Garrison to the West) the overflow falls on residential neighborhoods. While I am pleased that the Council is addressing these issues, there are several problems with the ordinance that should be addressed and changed before passage. There is a requirement that 80% of petition signers be homeowners (not the term “residents”) in the designated area. This creates a Catch-22 situation for my street which is adjacent to the campus.CCU owns 10 of the 12 duplex units which exceeds the 80% so they could easily veto any plan. This is one of the “unintended consequences” of a university buying up entire blocks of residential property for their own use. It would be preferable to substitute the term “resident” for “homeowner” so that renters could also participate in this decision making. Additionally, although the fee being charged is a small one , it is ludicrous to have residents pay anything to resolve a problem they had no part in creating. These long-standing issues are the result of lax City policies and businesses, universities, etc. taking advantage and relying on city streets and neighborhoods to deal with their overflows instead of creating the needed spaces themselves. Residents have dealt with this congestion and inconvenience for years with minimal relief. This fix is long overdue and the price should be paid by those responsible for causation.

marianne nagel · Jun 22, 2024 · 2:21pm
On June 16, 2023 we sent Council members the Ordinances establishing Restricted Parking Zones from the cities of Edgewater, Wheat Ridge, Arvada, Littleton and Englewood. Golden’s Ordinance was sent to Council members on January 13, 2023. In the staff memo for Lakewood’s proposed RPPA it is stated: “The permit program isn't intended to differentiate types of residents, so it isn't proposed to be allowed for single family areas being impacted by multifamily developments, etc." We disagree with this limitation of use. Residents of multifamily

developments have a dual identity. They are both residents of Lakewood and they are

customers of profit-making businesses. As customers of profit-making businesses, their parking should not negatively impact nearby single-family residential areas. We disagree with the requirement that 80% of households within a proposed RPPA must agree an RPPA should be established. Most decisions put to a vote are decided on a simple majority so that a minority cannot thwart the will of the majority. Wheat Ridge uses a two thirds majority. Arvada uses a two thirds majority. Littleton uses a simple majority. It shouldn't be easier to get confirmed to the Supreme Court of the United States than it is to establish an RPPA in Lakewood. We question the need for the complex regulations proposed by staff for the establishment of an RPPA and for possible subsequent modification of the boundaries of an RPPA. Golden, Edgewater, Wheat Ridge, Arvada, Littleton and Englewood do not have requirements such as 75% parking usage during peak parking time. A simpler, more resident driven approach would be to allow residents of a block to decide if they want to be in an RPPA. We believe individual residents are capable of deciding if they would rather reside in an RPPA or reside in an area where there is inadequate street parking for themselves, their guests and service providers such as plumbers. Edgewater, Wheat Ridge, Arvada, Littleton and Englewood have a one block minimum size for a RPPA, unlike the two-block and/or 40 residences proposed in this Ordinance. We believe the minimum size of an RPPA should be one block. Please make our suggested changes to this Ordinance before it is adopted. Thank you for your consideration. Marianne Nagel
Hal and Joyce Kaufman Susan Ruffert
Karen and Robert Tucker Harlan Feder

Brian Holman · Jun 18, 2024 · 8:11am
This should be expanded to everywhere within a quarter to half milf walkshed of light rail stations. Or ideally, everywhere in Lakewood. Allowing for free storage of private property or public property is a taxpayer subsidy to everyone that parks on the street. The money raised from street parking permits could be used to improve the areas around the street parking. The High Cost of Free Parking by Donald Shoup is a great book that I recommend anyone interested in parking economics read. He is a distinguished professor of urban planning and economics. Cities that have implemented his suggestions have seen improvements in both parking availability and public areas.

Donna DDV · Jun 17, 2024 · 12:51pm
I find it interesting that the possible pilot program for the Residential Parking Program is located in Applewood, specifically the area around the restaurant Abrusci's. Directly west, across Youngfield, is not Lakewood. It is either Golden or unincorporated Jefferson County. By implementing an RPP in this area of Lakewood, you will push all the customers to park across Youngfield Street where there is no RPP. And because Youngfield Street carries tons of traffic from a continuously backed-up I-70 and because there is no light or crosswalk, all the pedestrians get to play "dodge a car" when leaving the restaurant. And it is worse in the winter when the sun sets sooner. Parking at Abrusci's is a nightmare and one has to wonder why Lakewood approved their restaurant with so little parking in the first place.

ITEM 12 – ORDINANCE O-2024-18 – AMENDING LAKEWOOD MUNICIPAL CODE CHAPTER 10.63.010 TO AUTHORIZE PARKING ENFORCEMENT OFFICIALS TO ISSUE MUNICIPAL PARKING SUMMONSES AND COMPLAINTS FOR VIOLATIONS OF THE LAKEWOOD TRAFFIC CODE PERTAINING TO PARKING ON THE PUBLIC RIGHTS OF WAY

Brian Holman · Jun 24, 2024 · 2:19pm

Michael Newman is not alone here. I ride my bike as my primary form of transportation, and a day doesn't go by where I am forced into traffic because of an illegally parked car. I think more passive forms of enforcement such as protected bike lanes would be a huge improvement without costing our law enforcement agents any of their time.

Michael Newman · Jun 21, 2024 · 7:08pm
Thank you, council members, for your work in serving our city, you are appreciated! I am very pleased that parking enforcement is on the agenda. As a five-day a week bicycle commuter, anything that is done to remind our car-driving neighbors that there are other folks using alternative forms of transportation is a good thing. I cannot state my support for this proposal strongly enough. There is not a day that goes by that I am not forced into a traffic lane because a vehicle is parked/stopped in the bike lane. This is dangerous, easily avoidable, and worthy of enforcement attention. Please support this measure, and by doing so, support the broader goal of developing a more sustainable city that is focused on pedestrians, bikers, and folks utilizing mass transit. Thank you!

ITEM 13 – GENERAL PUBLIC COMMENT

Linda Pangle · Jun 24, 2024 · 10:37pm
Dear Council Members, if you have that much clout to handle the conflict in Gaza, please request that the citizens of Gaza release the 120 hostages, which includes Americans. Thank you.

Connie Williams · Jun 24, 2024 · 4:17pm
I am commenting on the road that got you here. Literally. I am concerned about the repaving of Allison Pkwy and Virginia and specifically, the fact that black asphalt was used and the fact that it is so very harmful to our climate. While it is too late to do anything about this project, I would ask that for any repaving projects in the future, a different composite be considered. As it is ext5remely difficult to navigate the website to find someone to speak to about this subject, I come to you. Thank you.

Megan Pluskis · Jun 24, 2024 · 8:58am
For those not aware, the land that is currently for sale at Vivian Elementary was gifted to the school district by a local family who lived one block from the current school site. Title deeds show the school district paid $10 for the purchase. Has the City considered purchasing the land so that it can remain a benefit to local residents, as it's been for nearly 70 years? While a price tag of $10 is likely not what the school district is seeking, profiting from a gift - only to potentially take a way our area's main open space - would truly be a detriment to our community.

Victoria Searles · Jun 23, 2024 · 4:56pm
Hello Council Members, I read the Looking@Lakewood issue delivered to my mailbox and was quite impressed by its contents! It is refreshing to see a local governing body solve current needs as well as do the critical planning of future infrastructure and the well-being of its future residents. Thank you for the recent (and future) big park and transportation infrastructure improvements. Looking forward to being involved and reading more! -Tori

Kevin Beall · Jun 23, 2024 · 3:23pm
The right future for Vivian Elementary property. As discussed, brought out, and confirmed in the public feedback, Vivian has played an important role in our community as a neighborhood park. Lakewood City Government controls the future of the Vivian School Property, it can be set aside by zoning. The property was gifted to the people of Jefferson County and the higher and moral choice is to preserve it for the people of this community. My Name is Kevin Beall, my family has been living in Lakewood for over 100 years. I have lived next to elementary schools for over 50 years. I grew up next to Slater Elementary (25 years) and now live next to the Vivian Elementary property (13 years). I have first-hand knowledge and experience of how school property serves the people in the surrounding area. Communities need a safe place for children and adults to play and recreate. I watch from my house, children riding bikes, skateboarding, flying kites, shooting baskets, playing ball sports in the baseball diamond and soccer in the field, playing in the playground, and more. The Vivian Property has the potential to continue serving our community in such important ways. We have a choice that is extremely impactful to this community. Lakewood City Government has the power and authority to determine the future of this property. Even though Jefferson County Schools want to dispose of it for money, that is not what serves the community's higher needs. It is really hard, if not impossible, to go into a community and create such a multipurpose community property. You can't tear down people's homes and clear a space for something like this later on, sometime down the road. Now is the time to protect and preserve a community space for future generations to use, enjoy, and benefit. Finally, The Vivian property is unique in that the property was donated to the people of Jefferson County to be used for a school. It is only right and moral that it is preserved for the people of the community, if not for a school, then a community park. Thank you, Kevin Beall

Sharon Vincent · Jun 21, 2024 · 2:44pm
Council passed an ordinance for abandoned and neglected properties. If you go down Colfax it appears that this is not being implemented. Buildings are abandoned, tagged by gangs, and piles of trash and general decay. It would seem that Council has stated multiple times that Colfax needs help. If criteria was passed where some of these items could be dealt with—why is it not? If it is perhaps neighborhood groups and WCCA could be notified of actions that are taking place.

Joshua Comden · Jun 20, 2024 · 9:32am
I want to thank Councilor LaBure and Councilor Nystrom for publicly coming out last meeting against the actions of Israel on the civilians living in Gaza! I also want to recognize Councilor Shahrezaei, Councilor Cruz, and Councilor Mayott-Guerrero publicly for being against the actions of Israel for months. Councilor LaBure put it out there that if a resolution were proposed, he would support it. Afterwards, Councilor Nystrom said that she agreed with him, but it wasn't

clear if she was just against the actions of Israel or also supportive of a resolution. How about it? A resolution has no effect on the city budget or operations. Analogous to voting as an individual, making a resolution as a lone city council does not seem like it could make a difference on foreign affairs, but collectively with other municipalities, it can be the decisive pressure, especially when there seems to be a peace deal being negotiated. Councilor Low, I know you had made a decision a couple of months ago not to speak on this issue again, but with new information comes new opportunities to reevaluate. With your support, you could be the decisive vote to make the resolution viable, and to save lives.

Brian Adams · Jun 19, 2024 · 4:10pm
My name is Brian Adams, a father, husband, Sickle Cell Anemia survivor and patient. I am also a longtime cannabis advocate by way of NORML (the National Organization for the Reform of Marijuana Laws), Director of Education at the board of education approved Cleveland School of Cannabis, and Ohio dispensary key employee manager since 2018. Thank you all for allowing me the opportunity to express both my utmost gratitude for your willingness to discuss cannabis policy reform, and my genuine concerns for Lakewood’s ban on adult-use cannabis sales. Valuable funds for community projects, education, rehabilitation, and infrastructure can and will be brought by way of cannabis tax revenue. Medical cannabis has already created the pathway for adult use sales via the dual-use license process. I would be more than willing to assist council with education on why your moratorium not only goes directly against the will of the voters, but would not be advantageous to the natural progression of America's next best industry.

MINUTES
REGULAR MEETING OF THE CITY COUNCIL
CITY OF LAKEWOOD

7:00 PM **July 8, 2024**

Minutes are not a verbatim transcription, but rather an attempt to capture the intent of the speaker by the City Clerk.

ITEM 1 – CALL TO ORDER

Mayor Strom called the hybrid meeting to order at 7:10 p.m.

ITEM 2 – ROLL CALL

Councilors Present:	Mayor Wendi Strom, Presiding Rich Olver Sophia Mayott-Guerrero Rebekah Stewart Dave Rein Jeslin Shahrezaei (Virtual) Jacob LaBure Roger Low Isabel Cruz Paula Nystrom Glenda Sinks
Absent:	None
Others in attendance:	Kathy Hodgson, City Manager Ben Goldstein, Deputy City Manager Alison McKenney Brown, City Attorney Jay Robb, City Clerk Bernadette Salazar, Deputy City Clerk

Full and timely notice of this City Council meeting had been given and a quorum was present.

ITEM 3 – PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited, and the audience remained standing for a moment of silent prayer.

ITEM 4 – STATEMENT OF CONFLICT OF INTEREST

Mayor Strom read the Statement of Conflict of Interest.

CONSENT AGENDA
ORDINANCES ON FIRST READING

Councilor Low removed item 7 from the consent agenda.

City Clerk Robb read the Consent Agenda into the record as amended.

ITEM 5 – RESOLUTION 2024-32 – LAKEWOOD EMPLOYEE MONEY PURCHASE PENSION PLAN AMENDMENT

ITEM 6 – RESOLUTION 2024-33 – LAKEWOOD POLICE MONEY PURCHASE PENSION PLAN AMENDMENT

END OF CONSENT AGENDA

Public Comment received via Lakewood Speaks: 0

Mayor Pro Tem Shahrezaei made a motion to approve the consent agenda as amended. The motion was seconded.

VOTE TO APPROVE THE CONSENT AGENDA AS AMENDED

	AYES	NAYS		AYES	NAYS
STROM	X		LABURE	X	
OLVER	X		NYSTROM	X	
MAYOTT-GUERRERO	X		LOW	X	
STEWART	X		CRUZ	X	
REIN	X		SINKS	X	
SHAHREZAEI	X				
			TOTAL	11	0

Result: The motion passed.

City Clerk Robb read Item 7 into the record.

ITEM 7 – RESOLUTION 2024-34 – LAKEWOOD DEFERRED COMPENSATION PLAN AMENDMENT

Public Comment received via Lakewood Speaks: 0

Mayor Pro Tem Shahrezaei made a motion to approve resolution 2024-34. The motion was seconded.

Councilor Low made a motion to amended Resolution 2024-34 in the seventh whereas statement to change the 2003 date to 2023. The motion was seconded

Councilor Olver called for a point of order to clarify council procedures for amending resolutions.

VOTE TO AMEND RESOLUTION 2024-34 IN THE SEVENTH WHEREAS STATEMENT TO CHANGE THE 2003 DATE TO 2023

	AYES	NAYS		AYES	NAYS
STROM	X		LABURE	X	
OLVER	X		NYSTROM	X	
MAYOTT-GUERRERO	X		LOW	X	
STEWART	X		CRUZ	X	
REIN	X		SINKS	X	
SHAHREZAEI	X				
			TOTAL	11	0

Result: The motion passed.

VOTE TO APPROVE RESOLUTION 2024-34 AS AMENDED

	AYES	NAYS		AYES	NAYS
STROM	X		LABURE	X	
OLVER	X		NYSTROM	X	
MAYOTT-GUERRERO	X		LOW	X	
STEWART	X		CRUZ	X	
REIN	X		SINKS	X	
SHAHREZAEI	X				
			TOTAL	11	0

Result: The motion passed.

ITEM 8 – GENERAL PUBLIC COMMENT

Public Comment received via Lakewood Speaks: 9 (see attached)

James Mace, Ward 1, addressed Council regarding issues in the community.

Patrick Fox, addressed Council regarding the challenges of being unhoused.

Chandra Shah, Ward 1, addressed Council regarding support for the City to purchase property at Vivian Elementary School. (Attachment A).

Jeff Walker, addressed Council regarding the challenges of being unhoused.

Daivd Thormodsgard, Ward 1, addressed Council regarding positive improvements in the community for bikers.

Dr. Hunter Montoya, Ward 4, addressed Council regarding the request to issue a Gaza cease-fire.

Brad Bruce, Ward 2, addressed Council regarding the request to issue a Gaza cease-fire.

ITEM 9 – GENERAL BUSINESS

A. ONE-YEAR LOOKBACK AT SHORT-TERM RENTAL LICENSING

City Clerk Jay Robb presented a 1-year review of the City's short-term rental program to the Council and responded to questions.

B. CITY COUNCIL REQUEST

Councilors Sinks and Mayor Pro Tem Shahrezaei submitted a request for the Lakewood Advisory Commissioners to assist individual councilors on research topics.

Discussion ensued and the Council agreed to allow the Advisory Commission to research other municipal advisory boards and propose ideas for restructuring the purpose of the advisory board.

VOTE TO APPROVE A PROJECT FOR THE LAKEWOOD ADVISORY COMMISSION TO RESEARCH OTHER MUNICIPAL ADVISORY BOARDS AND TO PROPOSE IDEAS FOR RESTRUCTURING THE COMMISSION BEFORE THE NEXT ANNUAL COUNCIL RETREAT

	AYES	NAYS		AYES	NAYS
STROM	X		LABURE	X	
OLVER		X	NYSTROM	X	
MAYOTT-GUERRERO	X		LOW	X	
STEWART	X		CRUZ	X	
REIN	X		SINKS	X	
SHAHREZAEI	X				
			TOTAL	10	1

Result: The motion passed.

ITEM 10 – EXECUTIVE REPORT

There was no executive report.

ITEM 11 – MAYOR AND CITY COUNCIL REPORTS

The Councilors and Mayor provided updates regarding upcoming Ward meetings and other events in the community.

ITEM 12 – ADJOURNMENT

Seeing no further business, Mayor Strom adjourned the meeting at 8:53 p.m.

Respectfully submitted,

____
Jay Robb, City Clerk

ITEM 8 – GENERAL PUBLIC COMMENT

Jon Stefaniak · Jul 8, 2024 · 7:42pm
Also agree with the lady who spoke about New Vivian open space. I run by this area nearly weekly in the summer to the Crown Park and always see people using it. I believe that some preservation of this open space would be a great thing for the community and council to consider as they approach any decisions about the future.

Marianne Nagel · Jul 8, 2024 · 3:57pm
This is very possibly a niggling point. Lakewood counts the 230 acres in Crown Hill Park to come up with a total of 7474 total park acres in Lakewood even though Crown Hill Park is in unincorporated Jefferson County and operated by Jeffco Open space. Lakewood does this because Lakewood made some sort of contribution when Crown Hill Park was established. Crown Hill is not listed on the Wheat Ridge website as a Wheat Ridge park. So the numbers for park acres per resident and park area as a percentage of total city area would have to be adjusted to consistently account for Crown Hill.

Brian Holman · Jul 8, 2024 · 2:21pm
Regarding Mr. Buckley's comment. I fully agree. There are so many potential uses for our schools. I was recently in Durango, where an old Junior High School was transformed into an arts gallery, coworking space, and coffee shop for small local businesses. I could see a lot of opportunities for leasing building space and renting it out at these schools for local businesses, whatever they may be. The result would be more local businesses, more tax revenue, minimal infrastructure spend (rent can cover property maintenance, etc). The sooner we take action on this, the less time and money we spend maintaining vacant structures. The area surrounding Molholm Elementary has enough population density to support businesses and the residents of the area have been asking for more development. Seems like a win for everybody.

Alex · Jul 8, 2024 · 12:41pm
Instead of flaming anti-Semitism: https://yourhub.denverpost.com/blog/2024/05/if-you-apeak-up-for-israel-were-done-with-you-at-least-in-lakewood/318647/ And continuing to fail to spur real economic development, while catering to even more metro district abuse: https://lakewoodinformer.com/2024/06/19/we-know-whats-good-for-you-metro-districts/ And giving even more tax-payer funded hand-outs to the developers: https://lakewoodinformer.com/2024/06/05/another-interest-free-developer-loan/ Why don't the city council stop wasting the taxpayers' millions of dollars and get back to running the city? Where is the municipal broadband? Other parts of JeffCo, already have fiber deployed and available for sign-up. Where is the biking infrastructure that was promised nearly a decade ago? Why are the trails on Green Mountain still unmaintained? And why is the police now removing random vehicles from Green Mountain and issuing shelter-in-place warning to those who live in Green Mountain? Why is Lakewood loosing well-paying jobs: https://lakewoodinformer.com/2024/04/28/give-us-your-tabor-refunds-says-lakewood/ Get back to running the city.

David and Stephanie Bozeman · Jul 8, 2024 · 8:41am

We have lived in the neighborhood where Vivian Elementary is located for 40 years. In this time we have lived here the neighborhood has turned over significantly and will continue to do so. Lately, we have noticed more and more young people moving in, with more young children and babies. The questions we have are: if you sell the property what are you going to do when the need for another school in the area arises, will there be land available and have you considered the price it will cost the taxpayer? This land was GIVEN to Jeffco for use as a school. Therefore, we think this area should be used as a community space until the need arises for another school. Basically, it would only cost the taxpayer (US) minimal property maintenance. Yes we are very concerned because it is OUR neighborhood OUR home and it will impact US. We want to preserve the unique, peaceful, old town feel of the neighborhood. It is a known fact that when young families are looking for a home to purchase they look for a neighborhood with a school. We should be supporting schools and early education and community.

James Mace · Jul 5, 2024 · 4:09pm
PIO Daniel Stoutamire on behalf of resident James Mace: Mr. Mace is concerned about a recent visit to Colorado Mills mall. He said that everyone there was speaking Spanish and this upset him. He wants to bring this to Council's attention and is concerned that Lakewood is turning into another Aurora.

Steven Buckley · Jul 2, 2024 · 7:35pm
Oy vey! Always double check your spreadsheet formulas before you post your own home-brew data analysis on the internet. I made a typo in my formula and left out a zero so all the parkland acres per 1000 people figures I posted last night are off by a factor of 10. How embarrassing! Lakewood has 47.4 acres of parks per 1000 people. Wheat Ridge has 14.5 park acres per 1000 people. Englewood has 7.3 acres per 1000 people. Still, my point stands that Lakewood has a lot more parkland than other places, and proportionately all the ratios of parkland in Lakewood compared to those other two cities that I gave in my first post are still correct. I apologize for the error.

Steven Buckley · Jul 1, 2024 · 5:21pm
I felt compelled to do a quick fact check. I was able to Google all of the following statistics and and pulled these data from the official webpages the relevant municipalities and from the US Census Bureau. The City of Englewood has 244 acres of parks and open space, a total city size of 6.65 square miles, and had 33,659 people as of the 2020 US census. Therefore 5.73% of Englewood's land is parks and open space, or about 0.73 acres of open space per 1000 people. The City of Wheat Ridge has 470 acres of parks and open space, a total city size of 9.58 square miles, and 32,398 residents. Therefore 7.67% of Wheat Ridge's land is devoted to parks and open space, and there are 1.45 acres of open space per 1000 people. The City of Lakewood has 7,400 acres of parks and open space, a total city size of 44.65 square miles, and has 155,984 human souls who call it home. Therefore 25.90% of Lakewood's land is devoted to parks and open space, and we enjoy 4.74 acres of open space per 1000 people in Lakewood. On a per land-area basis, Lakewood has roughly 4.5 times more parks as Englewood, and 3.3 times more parks than Wheat Ridge. On a per-resident basis, Lakewood has roughly 6.5 times more parkland than Englewood, and 3.2 times more parkland than Wheat Ridge. Overall, Lakewood is doing extremely well with its parks and open spaces; but my analysis is very high level and does gloss over well-understood and long-standing equity issues, most pointedly that

the northern portions of Lakewood have significantly less parkland than the southern portions of the city. Nevertheless, I would also point out that every city has only so much land, and has multiple needs for that land -- not just parks, recreation and open space. I have publicly stated on multiple previous occasions that the topic of what will become of the land within Lakewood which is occupied by five now-closed elementary schools is one that deserves extremely robust community discussion and engagement. Frankly, I haven't seen much engagement on this topic initiated by the City. Lakewood could do with a lot more. One key advantage of the City engaging with residents more directly and more formally on this topic is that we would have the opportunity for a more fact-driven conversation. I love parks as much as anybody, and I even like the idea of adding more parks, but it is just flat-out incorrect to assert that Lakewood is not already doing extremely well in terms of parkland acreage, and it is quite reasonable to suggest that there are a lot of other potential uses for these former schools besides parks that could be beneficial to the city as a whole. Without going into tons of detail and derailing my main point, I think it will be sufficient to state that in the past several months I have heard multiple false assertions in conversations about others closed schools in Lakewood (not just Vivian Elementary), and have also heard plenty of other incorrect or questionable claims made about parks and open spaces in our city. The amount of misinformation out there is getting to be enough where it needs to be addressed head-on, so that we as a community can make the best choices for the future of these school properties and the neighborhoods that they are in, and so that we also can have confidence that those decisions - whatever they may be - stand firmly on a foundation of a good understanding of true and correct facts.

Kathy Oneal · Jul 1, 2024 · 2:57pm
I am a current 24 year resident of Lakewood. I live within 2 block of Vivian Elementary. My daughter attended Vivian Elementary. I am very concerned about the disposition of this property. This property has become a neighborhood (get-together) We discuss various topics, including this one. We love this open air venue that provides community interaction. I am sure you are aware the property was DONATED to the city. With that in mind, can you not use the structure for rental purposes? This would provide for upkeep of the existing property. The very last thing we want is to provide space for yet more construction of housing. Lakewood has the smallest proportion of parks as compared to Wheatridge or Englewood. If you look at the entire space in Lakewood, compare the parks listed versus entire space in Englewood. Again, proportionately, we have the least parks when you look at the total of land in Englewood versus Lakewood. I oppose this school being removed and houses built. With the continuation of illegal immigrants continuing, we will NEED a school. Please maintain this school as a park. Please listen to your community. Thank you

STAFF MEMO

DATE OF MEETING: AUGUST 12, 2024 / AGENDA ITEM NO. 9

To: Mayor and City Council

From: Holly Bjorklund, Chief of the Finance Branch

Subject: **BALLOT ISSUE FOR THE PURPOSE OF AUTHORIZING A VOTER-APPROVED REVENUE CHANGE FOR THE CITY OF LAKEWOOD**

SUMMARY STATEMENT: Upon request by City of Lakewood's Budget and Audit Board, staff has prepared the attached resolution for a ballot issue at the state general election on November 5, 2024. The ballot issue is for the purpose of authorizing a voter-approved revenue change for the City of Lakewood.

BACKGROUND INFORMATION: Since 2022, the Budget and Audit board has spent multiple meetings understanding the long-term financial situation of the City of Lakewood. An outcome to these discussions is the Budget and Audit Board recommending hiring a public opinion survey research firm to get community feedback on city services, programs and potential ballot measures.

Magellan Strategies was hired and conducted two surveys. One in April 2024 and the second in June 2024. The results of the April 2024 survey were shared at the May 20th joint session of the City Council Study Session and the Budget and Audit Board. The results of the June 2024 survey were shared at the Budget and Audit Board meeting on July 30, 2024. At that meeting, the Budget and Audit Board also discussed and agreed to recommend ballot language for the purpose of authorizing a voter-approved revenue change for the City of Lakewood.

BUDGETARY IMPACTS: None

STAFF RECOMMENDATIONS: None

ALTERNATIVES: City Council may choose to make modifications to the attached resolution or decide to take no action.

PUBLIC OUTREACH: This item has been promoted through the regular communication channels to be considered by the Lakewood City Council.

NEXT STEPS: None

ATTACHMENTS: 1. Resolution - 2024-38

REVIEWED BY: Kathleen E. Hodgson, City Manager
Benjamin B. Goldstein, Deputy City Manager
Alison McKenney Brown, City Attorney

2024-38

A RESOLUTION

TO SUBMIT TO A VOTE OF THE REGISTERED ELECTORS OF THE CITY OF LAKEWOOD AT THE STATE GENERAL ELECTION ON NOVEMBER 5, 2024, A BALLOT ISSUE FOR THE PURPOSE OF AUTHORIZING A VOTER-APPROVED REVENUE CHANGE FOR THE CITY OF LAKEWOOD

WHEREAS, the Colorado Constitution, Article 10 Section 20 (3)(a) limits the dates for voting on ballot issues to a state general election, biennial local district election or the first Tuesday in November of odd-numbered years; and

WHEREAS, the Lakewood City Council desires to submit to a vote of the registered electors of the City of Lakewood the question of whether the City should be authorized to collect and retain the full amount of City taxes and all other revenue collected from all sources, in excess of the revenue or spending limitations set forth in the Taxpayer's Bill of rights, Article X, Section 20, of the Colorado Constitution (TABOR), from the year 2026 and continuing each year thereafter, and to expend such excess amounts on the following:

- Parks, Recreation, and Open Space
- Public Safety-Related Equipment, Services, and Personnel
- The Maintenance and Improvement of Streets, Sidewalks, Paths and Infrastructure

NOW, THEREFORE, BE IT ORDAINED By the City Council of the City of Lakewood, Colorado, that:

SECTION 1. A State General Election will be held on November 5, 2024. The City of Lakewood will participate in this election as it will be conducted as a coordinated election in conjunction with the Jefferson County Clerk and Recorder.

SECTION 2. The following ballot issue shall be submitted to a vote of the registered electors of the City at the State General Election on November 5, 2024:

<u>CITY OF LAKEWOOD BALLOT ISSUE XX</u>

WITHOUT INCREASING CURRENT TAXES OR ADDING ANY NEW TAX, SHALL THE CITY OF LAKEWOOD, COLORADO, BE AUTHORIZED TO COLLECT, RETAIN AND SPEND THE FULL AMOUNT OF CITY TAXES AND ALL OTHER REVENUE COLLECTED FROM ALL SOURCES IN 2026 AND EACH YEAR THEREAFTER, IN EXCESS OF THE REVENUE AND SPENDING LIMITATIONS IN ARTICLE X, SECTION 20, OF THE COLORADO CONSTITUTION, AND SHALL SUCH EXCESS REVENUE BE SPENT ONLY AS FOLLOWS:

ONE-THIRD FOR PARKS, RECREATION AND OPEN SPACE;

ONE-THIRD FOR PUBLIC SAFETY-RELATED EQUIPMENT, SERVICES AND/OR PERSONNEL; AND

ONE-THIRD FOR THE MAINTENANCE AND IMPROVEMENT OF STREETS, SIDEWALKS, PATHS AND INFRASTRUCTURE.

AND SHALL ALL SUCH EXCESS REVENUES BE MAINTAINED AND PRESENTED IN A SEPARATE BUDGET OR ACCOUNT OF THE CITY OF LAKEWOOD, COLORADO, TO PROVIDE FOR OVERSIGHT BY THE CITIZENS OF LAKEWOOD TO ENSURE THE EXCESS FUNDS ARE USED SOLELY FOR THE PURPOSES DESCRIBED ABOVE?

YES ________

NO ________

SECTION 3. For purposes of C.R.S. § 1-11-203.5, this Resolution shall serve to set the title and content of the ballot issue set forth herein and the ballot title for such question shall be the text of the question itself.

SECTION 4. If the registered electors approve this measure, the City will collect, retain and spend revenues it collects as set forth in the ballot issue without imposing any new taxes or raising any existing taxes.

SECTION 5. The City Clerk is hereby authorized to execute with the Jefferson County Clerk an intergovernmental agreement approved as to form by the City Attorney and to take all appropriate action to participate in the consolidated election, and shall comply with all applicable election laws, including, but not limited to providing the County with required bilingual ballot language in accordance with §1-5-901, et seq, C.R.S.

INTRODUCED, READ AND ADOPTED by a vote of ___ for and ___ against at a hybrid regular meeting of the City Council on August 12, 2024, at 7 o'clock p.m., at the Lakewood Civic Center, 480 South Allison Parkway, Lakewood, Colorado.

____
Wendi Strom, Mayor

ATTEST:

____
Jay Robb, City Clerk

APPROVED AS TO FORM:

____
Alison McKenney Brown, City Attorney

STAFF MEMO

DATE OF MEETING: AUGUST 12, 2024 / AGENDA ITEM NO. 10

To: Mayor and City Council

From: Jay Robb, City Clerk

Subject: **APPROVING PARTICIPATION IN THE NOVEMBER 5, 2024 GENERAL ELECTION WITH JEFFERSON COUNTY**

SUMMARY STATEMENT: In anticipation of the possibility that the City will be participating in the November 2024 coordinated election, City staff is presenting to the City Council Resolution 2024-39 approving an intergovernmental agreement (IGA) to coordinate with the Jefferson County Clerk and Recorder's Office to provide election services for the City of Lakewood and authorizing the placement of any referred questions on the ballot of the November 5, 2024, General Election.

BACKGROUND INFORMATION: November 5, 2024, is a General Election and designated coordinated election date under state law which establishes the Jefferson County Clerk and Recorder as the coordinated election official responsible for conducting the election on behalf of all participating governmental jurisdictions.

BUDGETARY IMPACTS: Final election costs are not known until after the election is held due to various factors outlined in Exhibit A of the IGA, such as the number of participating governmental entities, ballot content from participating governmental entities, and the number of registered voters within each jurisdiction. Once the election is complete, the costs are shared among the participating governments based on the factors and calculations outlined in Exhibit A. The City Clerk's Office has budgeted $130,000 to coordinate for the 2024 General Election.

STAFF RECOMMENDATIONS: Staff recommends approval of Resolution 2024-39 to coordinate the November 5, 2024, election with Jefferson County.

ALTERNATIVES: None

PUBLIC OUTREACH: This item has been promoted through the regular communication channels to be considered by the Lakewood City Council.

NEXT STEPS: If approved, City staff will execute the IGA to coordinate the November 5, 2024, General Election with the Jefferson County Clerk and Reorder.

ATTACHMENTS:
1. Resolution 2024-39 coordinated election
2. Election IGA with City of Lakewood

REVIEWED BY: Kathleen E. Hodgson, City Manager
Benjamin B. Goldstein, Deputy City Manager
Alison McKenney Brown, City Attorney

2024-39

A RESOLUTION

APPROVING PARTICIPATION BY THE CITY OF LAKEWOOD IN A COORDINATED ELECTION TO BE CONDUCTED ON NOVEMBER 5, 2024, BY THE JEFFERSON COUNTY CLERK AND RECORDER

WHEREAS, November 5, 2024, is a designated coordinated election date under State law and the date of a Statewide general election;

WHEREAS, the Jefferson County Clerk and Recorder (Jefferson County Clerk) is the coordinated election official responsible for conducting the coordinated election on behalf of the participating governmental jurisdictions;

WHEREAS, Jefferson County and the City of Lakewood must enter into an intergovernmental agreement to provide for coordinated election services and for formal approval for participation in the coordinated election (IGA); and

WHEREAS, the City Council hereby finds and determines that execution of the IGA and participation in the coordinated election is in the best interest of the residents of the City.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lakewood, Colorado, that:

SECTION 1. Participation by the City of Lakewood in the coordinated election to be held on November 5, 2024, is hereby approved.

SECTION 2. The City Clerk is hereby authorized to execute with the Jefferson County Clerk an IGA, approved as to form by the City Attorney, and to take all appropriate action to hold the election, including compliance with applicable election laws.

SECTION 3. This Resolution shall become effective immediately upon adoption.

INTRODUCED, READ, AND ADOPTED by a vote of ___ for and ___ against at a hybrid regular meeting of the City Council on August 12, 2024, at 7 o'clock p.m. at the Lakewood Civic Center, 480 South Allison Parkway, Lakewood, Colorado.

Wendi Strom, Mayor

ATTEST:

Jay Robb, City Clerk

APPROVED AS TO FORM:

Alison McKenney Brown, City Attorney

INTERGOVERNMENTAL AGREEMENT FOR ELECTION COORDINATION

THIS INTERGOVERNMENTAL AGREEMENT FOR ELECTION COORDINATION (this "Agreement"), dated for reference purposes only this 25th day of July, 2024, is by and between the CLERK AND RECORDER FOR THE COUNTY OF JEFFERSON, STATE OF COLORADO ("County Clerk") and the City of Lakewood, Colorado (the "Jurisdiction," and together with the County Clerk, the "Parties.")

RECITALS

A. The County Clerk and the Jurisdiction are authorized to conduct elections under Colorado law;

B. The Parties wish to coordinate the administration of their respective election matters at the upcoming election to be held on November 5, 2024 (the "Election"); and

C. This Agreement sets forth the Parties' respective duties and responsibilities in connection with the preparation for, and conduct of, the Election.

AGREEMENT

In consideration of the foregoing recitals and the mutual covenants and promises herein contained, the Parties agree as follows:

1. <u>Definitions.</u> Capitalized terms not otherwise defined herein shall have the meanings set forth below:

a. "Applicable Law" means all law applicable to the Election, including, without limitation, the Colorado Constitution, the Uniform Election Code (as defined below), UOCAVA (as defined below) and the Rules (as defined below).

b. "Ballot Box" means a locked and secured container meeting the requirements of Applicable Law in which ballots may be deposited.

c. "Ballot Issue" shall have the meaning ascribed to that term in C.R.S. § 1-1-104(2.3).

d. "Ballot Issue Notice" shall have the meaning ascribed to that term in C.R.S. § 1-1-104(2.5).

e. "Ballot Measure" means any Ballot Issue or Ballot Question.

f. "Ballot Question" shall the meaning ascribed to that term in C.R.S. § 1-1-104(2.7).

g. "Election Audit" means a risk-limiting audit performed in accordance with the requirements of C.R.S. § 1-7-515.

h. "Election Canvass" means the process of reconciling the ballots cast in the Election to the ballots counted, which is performed in accordance with the requirements of C.R.S. § 1-10-101, et seq.

i. “Precinct” means an area with established boundaries within the Jurisdiction used to establish election districts.

j. “Rules” means the current rules and regulations governing election procedures adopted by the Colorado Secretary of State, including any amendments adopted after execution of this Agreement.

k. “Shared Election Costs” means all costs incurred by the County Clerk in connection with the Election that are eligible to be shared between the County Clerk and the Jurisdiction. Shared Election Costs include, without limitation, all costs incurred by the County related to temporary election staff (such as election judges), including training and onboarding costs, regular County Clerk employee overtime costs related to the Election, the cost of printing ballots, costs for non-routine support, maintenance, handling and delivery of Election equipment, hardware and software, the cost of preparing minority language sample ballots and TABOR Books, costs of Election forms, materials, supplies and postage, VSPC rental and setup costs, and costs of Election Day meals.

l. “TABOR Book” means a booklet containing Ballot Issue Notices prepared and mailed to eligible voters in accordance with Applicable Law and the terms of this Agreement.

m. “Uniform Election Code” means Articles 1 to 13 of Title 1 of the Colorado Revised Statutes.

n. “UOCAVA” means the Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. § 20301, et seq., as incorporated in Colorado pursuant to C.R.S. 1-8.3-101, et seq.

2. **<u>Term.</u>** The term of this Agreement shall commence on the date it is validly executed by both Parties and shall continue until all obligations of both Parties under the Agreement have been completed.

3. **<u>Designation of Coordinated Election Official.</u>** The Parties agree that the County Clerk shall serve as the “Coordinated Election Official” for the Election. As the Coordinated Election Official, the County Clerk shall conduct the Election on behalf of the Jurisdiction and shall be responsible for performing such duties as are assigned to a Coordinated Election Official under Applicable Law, except to the extent specifically modified herein.

4. **<u>Designation of Liaisons.</u>**

a. Each Party designates the individuals listed below as its liaison and alternate liaison hereunder.

County Clerk Liaison	Alternate County Clerk Liaison
Cynthia Rasor Jefferson County Elections Division 3500 Illinois Street, Suite 1100 Golden, CO 80401 Direct Phone: (303) 271-8115 Office Phone: (303) 271-8111 Email: logistics@jeffco.us	Geneice Murphy Jefferson County Elections Division 3500 Illinois Street, Suite 1100 Golden, CO 80401 Office Phone: (303) 271-8111 Email: gmurphy@jeffco.us

Jurisdiction Liaison	Alternate Jurisdiction Liaison
Name	Name
Title/Office	Title/Office
Address	Address
City, State, Zip Code	City, State, Zip Code
Direct Phone Number	Direct Phone Number
Office Phone Number	Office Phone Number
Email	Email

b. The County Clerk Liaison shall act as the County Clerk's primary liaison with the Jurisdiction for the Election and shall have primary responsibility for performance of the County Clerk's obligations hereunder. In the event the Jurisdiction needs immediate assistance and the Election Liaison is unavailable, the Jurisdiction shall contact the Alternate County Clerk Liaison.

c. The Jurisdiction Liaison shall act as the Jurisdiction's primary liaison with the County Clerk for the Election and shall have primary responsibility for the performance of the Jurisdiction's obligations hereunder. In the event the County Clerk needs immediate assistance and the Jurisdiction Liaison is unavailable, the County Clerk shall contact the Alternate Jurisdiction Liaison.

5. **Notices.** All correspondence and notices required to be given under this Agreement shall be delivered to the Parties' respective liaisons identified above at the addresses listed above and shall be deemed received: (1) three days after the same is mailed by first class, certified mail; (2) immediately upon hand delivery; or (3) immediately upon email transmission, if transmitted on a business day and during normal business hours of the recipient, and otherwise on the next business day following transmission.

6. **Mail Ballot Election.** The Election shall be held on November 5, 2024 ("Election Day") and shall be conducted as a mail ballot election in accordance with the procedures of the Mail Ballot Election Act, C.R.S. § 1-7.5-101, et seq.

7. **Jurisdictional Limitation.**

   a. If the Jurisdiction encompasses territory outside of Jefferson County, Colorado, this Agreement shall be construed to apply only to that portion of the Jurisdiction that falls within Jefferson County.

   b. Notwithstanding the foregoing, if the Jurisdiction encompasses territory outside of Jefferson County, the County Clerk will coordinate with the designated election official(s) of such other territories for the purpose of assigning ballot numbers/letters, certifying TABOR Book content, and other matters appropriate under Applicable Law, in accordance with the Rules governing "controlling counties."

8. **No Use of Ranked Choice Voting.** The Jurisdiction has not provided notice to the County Clerk that any of the Jurisdiction's races or contests will use ranked choice voting. Accordingly, ranked choice voting will not be used for any of the Jurisdiction's races or contests.

9. **Responsibilities of the Parties.** The Jurisdiction and County Clerk shall perform the following responsibilities in connection with the preparation for, and conduct of, the Election, in accordance with the terms of this Agreement and Applicable Law:

   a. Execution and Documentation of Authority. On or before 12:00 pm on August 27, 2024 the Jurisdiction shall email the County Clerk:

      i. a PDF of this Agreement validly executed by the Jurisdiction; and

      ii. a copy of a duly-passed resolution stating that the Jurisdiction will coordinate with the County Clerk in the Election in accordance with the terms of this Agreement and Applicable Law and authorizing the Jurisdiction to enter into this Agreement. The email shall be sent to logistics@jeffco.us.

   b. Maps and Legal Descriptions.

      i. Promptly upon execution of this Agreement, the Jurisdiction shall provide the County Clerk with the Jurisdiction's current shapefiles (point-to-point geometry using points, lines and area features to define the Jurisdiction's boundaries) or updated address library files, including each Precinct, district/ward and the voting jurisdiction, if there were any changes to the boundaries of the Jurisdiction after January 1, 2024.

c. Election Preparation and Support

i. VSPCs. The County Clerk shall establish, staff, equip and operate all Voter Service Polling Centers.

ii. Election Judges. The County Clerk shall engage, train and coordinate the scheduling of all election judges.

iii. Equipment and Supplies. The County Clerk shall obtain all necessary equipment and supplies to conduct the Election, including all voting equipment, ballots and forms.

iv. Ballot Boxes. The County Clerk shall establish, maintain, and collect ballots from all Ballot Boxes.

1) The Jurisdiction shall not take any action that would prevent voters from accessing any Ballot Box twenty-four hours per day during the period beginning October 11, 2024 through and including Election Day.

v. Ballot Counting Process. The County Clerk shall (1) establish, staff, equip and operate a centralized ballot counting location for the Election, (2) establish ballot counting procedures for the Election; and (3) establish backup ballot counting procedures and sites for ballot counting in the event its ballot counting equipment fails during the Election.

vi. Voter Support. The County Clerk shall provide telephone and in-person support to voters during the in-person voting period and from 7:00 a.m. to 7:00 p.m. on Election Day.

vii. Election Notices. The County Clerk shall publish all Election notices required by Applicable Law.

1) The Jurisdiction shall not publish any notice related to the Election without first obtaining the approval of the County Clerk. To request approval to publish a notice the Jurisdiction shall provide the County Clerk with all relevant information related to the proposed publication, including a copy of the proposed notice, at least one (1) week prior to the Jurisdiction's deadline for submitting the proposed notice to the publisher. The Jurisdiction shall bear full responsibility for any Election notices published without the County Clerk's approval and shall comply with all instructions issued by the County Clerk to remedy any incorrect or improper notices.

d. Logic and Accuracy Test. The County Clerk shall prepare for and conduct the Logic and Accuracy Test ("LAT").

1) The County Clerk will notify the Jurisdiction of the date and time of the LAT, once it has been scheduled, and request confirmation as to whether the Jurisdiction intends to attend the LAT. If the Jurisdiction wishes to attend and witness the LAT, the Jurisdiction Liaison must submit the name of the Jurisdiction's attendee in writing to the County Clerk within seventy-two (72) hours of its receipt of the above-described notice. If the Jurisdiction fails to meet this deadline, the County Clerk shall deem the failure to be a decision by the Jurisdiction not to witness the LAT and will act on behalf of the Jurisdiction, as appropriate.

e. Certification of Jurisdiction Ballot Measures. The Jurisdiction shall be responsible for certifying, and for taking all actions required by Applicable Law to certify, any Ballot Measures included on the Jurisdiction's ballot certification (including both Ballot Measures referred by the Jurisdiction itself and citizen-initiated Ballot Measures affecting the Jurisdiction).

f. Ballot Preparation

i. No later than 12:00 p.m. on September 6, 2024, the Jurisdiction shall electronically submit its ballot certification to the County Clerk via text document (preferably Microsoft Word – no PDF). If the Jurisdiction fails to submit the ballot certification by the above deadline, the ballot certification may not be accepted by the County Clerk.

1) The Jurisdiction shall submit its ballot certification using the ballot certification template provided by the County Clerk.

2) The Jurisdiction's ballot certification shall include all of the races, candidates and contests that will be presented to the Jurisdiction's voters in the Election, including the text of all Ballot Measures, in the exact order that they need to appear on the ballot.

3) The ballot certification shall not be embedded in an email and shall not contain any extraordinary (unique) formatting. Examples of extraordinary (unique) formatting not permitted in the ballot certification include, but are not limited to: (a) text boxes; (b) charts; (c) spreadsheets; (d) strikeouts; (e) bolding; and (f) symbols.

4) The Jurisdiction shall proofread the language of any Ballot Measures that appear in the ballot certification prior to sending it to the County Clerk for initial text lay out. The Jurisdiction shall be solely responsible for ensuring the legality and accuracy of all Ballot Measure language.

5) The Jurisdiction shall ensure the correct spelling of the name of each candidate running for Jurisdiction office, if applicable.

6) The Jurisdiction shall not assign a ballot number to any Ballot Measure. The County Clerk shall determine the numbering of all Ballot Measures and will provide the Jurisdiction with the ballot number after ballot certification.

ii. Upon receipt of the ballot certification from the Jurisdiction, the County Clerk will:

1) Consolidate the ballot certification content received from all Jurisdictions and organize it into the structure in which it will appear on the printed ballot(s);

2) Determine the numbering of all Ballot Measures; and

3) Provide a document containing the Jurisdiction's final draft ballot printing layout and text to the Jurisdiction, with instructions to perform a final review and provide final approval by a date set forth in the instructions.

4) The County Clerk reserves the right to change the content of the Jurisdiction's ballot certification (other than candidate name/ballot question content) in order to ensure ballot consistency.

iii. Upon receipt of the final draft ballot layout from the County Clerk, the Jurisdiction Liaison or Alternate Jurisdiction Liaison shall be available to perform a final review and proofread of the ballot layout and provide final approval to the County Clerk by the deadline included in the instructions sent to the Jurisdiction. Once approved, the ballot layout cannot be changed.

iv. Between October 11, 2024 and October 18, 2024, the County Clerk shall print and mail ballots to each active eligible Jefferson County voter, together with voter instructions, outgoing envelope, return envelope and any other items required by Applicable Law.

v. From October 15, 2024 through the 8-day mailing cutoff, the County Clerk shall mail supplemental ballots to eligible Jefferson County voters who were not included in the initial mailing.

g. Preparation of Spanish Language Ballot

i. In accordance with Applicable Law, the County Clerk will prepare an in-person Spanish language ballot containing all of the same content that is on the English language ballot and make the Spanish language ballot accessible to Jefferson County voters on the County Clerk's public website, at Voter Service Polling Centers, and at such other locations as the County Clerk determines. The County Clerk reserves the right to determine whether the in-person Spanish language ballot is made available to voters in printed or electronic form.

ii. The Jurisdiction shall be responsible for preparing a Spanish language translation of the title and text of all Ballot Measures included on the Jurisdiction's ballot certification (including both Ballot Measures referred by the Jurisdiction itself and citizen-initiated Ballot Measures affecting the Jurisdiction) and all Jurisdiction offices on the ballot.

1) The Jurisdiction's Spanish language ballot translation shall be prepared in accordance with Applicable Law including, without limitation, all applicable requirements of the Ballot Access for All Citizens Act, C.R.S. §§ 1-5-901 et seq., and the Secretary of State's rules promulgated thereunder. Without limiting the generality of the foregoing, the Jurisdiction (a) shall have the Spanish language ballot translation prepared by a "qualified translator or interpreter," as that term is defined in C.R.S. § 1-5-903(4) and Secretary of State Rule 4.8.9; and (b) shall provide a Spanish language ballot translation that is linguistically accurate, culturally appropriate, and technically consistent with the original documents.

iii. On or before 12:00 pm on September 6, 2024, the Jurisdiction shall electronically submit its Spanish language ballot translation to the County Clerk via text document (preferably Microsoft Word – no PDF).

1) The Jurisdiction's Spanish language ballot translation shall include the text of all Jurisdiction offices and Ballot Measures on the Jurisdiction's ballot certification, in the exact order that they will appear on the ballot.

iv. The County Clerk shall be responsible for providing Spanish language translations of all voter instructions and voter information in the TABOR Book, and other ballot content not required to be provided by the Jurisdiction or other participating jurisdictions. The Jurisdiction agrees to release the County Clerk from all claims it may have relating to the County Clerk's translation of such content (including, without limitation, all claims relating to the accuracy of the translation) provided that the County Clerk (a) has had the translation performed by a qualified translator or interpreter; and (b) otherwise complies with Applicable Law. The County Clerk is under no obligation to re-translate voter instructions or voter information that has not changed from prior years.

h. Ballot Issue Notice Preparation

i. On or before 12:00 p.m. on September 23, 2024, the Jurisdiction shall provide the County Clerk with the full text of the Ballot Issue Notice covering all of the Jurisdiction's Ballot Issue(s). The Ballot Issue Notice shall include all information required by Applicable Law, including without limitation the following:

1) The name of the Jurisdiction;

2) The identity and contact information of the Jurisdiction contact person;

3) The text of each Ballot Issue in the form finally certified and accepted by the County Clerk;

4) All other required Ballot Issue language, including but not limited to:

   a) A fiscal impact statement, if required; and

   b) Summaries of all comments for and against each Ballot Issue validly received by the Jurisdiction, or a statement that no comments were filed by the constitutional deadline.

      i) The Jurisdiction shall be responsible for accepting, filing, summarizing and retaining comments concerning the Jurisdiction's Ballot Issues and shall ensure that all requirements of Applicable Law are complied with, including, without limitation, ensuring that all comments submitted to the Jurisdiction include a signature and a physical address where the signor is registered to vote.

ii. Delivery and Formatting Requirements

1) The Jurisdiction shall electronically deliver the Ballot Issue Notice to the County Clerk via text document (preferably Microsoft Word – no PDF).

2) The Jurisdiction shall use the TABOR Ballot Issue Notice template provided by the County Clerk.

3) The text of the Ballot Issue shall be in all UPPERCASE.

4) All other text in the Ballot Issue Notice (including the identity and contact information of the Jurisdiction contact person, the fiscal impact statement, if required, and the summaries of comments for and against each Ballot Issue), shall be in upper and lower case.

5) The Ballot Issue Notice shall not be embedded in an email and shall not contain any extraordinary (unique) formatting.

   a) Examples of extraordinary (unique) formatting not permitted in the Ballot Issue Notice includes, but are not limited to: (a) text boxes; (b) charts; (c) spreadsheets; (d) strikeouts; (e) bolding; and (f) symbols.

6) The Jurisdiction shall be solely responsible for ensuring the legality and accuracy of all Ballot Issue Notice language.

iii. TABOR Book Layout. Upon receipt of the Ballot Issue Notice from the Jurisdiction, the County Clerk shall:

1) Consolidate the Ballot Issue Notice content received from all Jurisdictions and organize it into the structure in which it will appear in the TABOR Book;
2) Add a list of County VSPCs and Ballot Boxes, and any other information required by Applicable Law, to the TABOR Book; and
3) Provide a final draft layout of the TABOR Book to the Jurisdiction with instructions to perform a final review of their portion of the TABOR Book and provide final approval by a date set forth in the instructions.
4) The County Clerk reserves the right to change the content of the Jurisdiction's Ballot Issue Notice (other than the ballot question content) in order to ensure consistency.

iv. Final Review and Proofread. On September 23, 2024, the Jurisdiction Liaison or Alternate Jurisdiction Liaison shall be available to perform a final review and proofread of the Jurisdiction's portion of the TABOR Book and provide final approval of such portion to the County Clerk by the deadline included in the instructions sent to the Jurisdiction. Upon completion of the Jurisdiction's review and proofread of their portion of the TABOR Book, the Jurisdiction Liaison or Alternate Jurisdiction Liaison shall send approval of its content via electronic transmission to the County Clerk. Once approved, Ballot Issue Notice text cannot be changed.

1) The Jurisdiction shall have no more than 2 hours from the time the County Clerk sends the TABOR Book to perform the final review and proofread. If the Jurisdiction fails to meet this deadline, the County Clerk shall deem the failure to be a decision by the Jurisdiction to approve the Jurisdiction's portion of the TABOR book in the form transmitted by the County Clerk (including any modifications proposed by the County Clerk).

v. Printing and Mailing. On or before October 4, 2024, the County Clerk shall print and mail the TABOR Book to each address in Jefferson County at which one or more active, registered Jefferson County voter resides.

1) Nothing herein shall preclude the County Clerk from including ballot issue notices for more than one jurisdiction in the TABOR Book if doing so arises from the County Clerk's efforts to mail the TABOR Book at "least cost" and such mailing conforms with Applicable Law.

vi. TABOR Books for Non-Jefferson County Voters. The Jurisdiction shall be solely responsible for preparing and mailing TABOR Books to voters who reside outside of Jefferson County.

1) Notwithstanding the foregoing, the County Clerk will make a PDF of the final TABOR Book available on its website, which the Jurisdiction may print and mail copies of to voters who reside outside of Jefferson County at its sole expense.

2) If the Jurisdiction wishes to print and mail extra TABOR Books for non-Jefferson County residents, the Jurisdiction shall be solely responsible for its acts or omissions in connection therewith.

3) The County Clerk will not agree to prepare special TABOR Books for non-Jefferson County residents.

i. Ballot Counting / Result Reporting

i. The County Clerk shall count all ballots received during the Election voting period.

ii. Between 7:00 p.m. and 7:30 p.m., and at approximately 9:00 p.m., on Election Day, the County Clerk shall upload unofficial Election results to the Election Night Reporting ("ENR") system (unless the Secretary of State waives or modifies these deadlines or the ENR system is offline or otherwise unavailable).

iii. The County Clerk shall have the right, but not the obligation, to upload unofficial Election results to its public website on or after Election Day.

iv. Upon completion of the Election Canvass on November 27, 2024, the County Clerk shall upload a Jurisdiction-wide summary of the official Election results to the ENR system.

v. If there is not a recount affecting the County, the County Clerk shall upload the official Precinct or District-level Election results and Cast Vote Record to its public website and make these results available to the Jurisdiction upon request on December 6, 2024. If there is a recount affecting the County, the County Clerk shall upload the official Precinct or District-level results and Cast Vote Record to its public website and make these results available to the Jurisdiction upon request within three (3) business days following completion of the recount.

j. Election Audit. On or before November 26, 2024, the County Clerk, in collaboration with the Election audit board(s), shall conduct, assist and oversee the Election Audit.

i. The County Clerk will notify the Jurisdiction of the date and time of the Election audit, once it has been scheduled, and request confirmation as to whether the Jurisdiction intends to attend the audit. If the Jurisdiction wishes to attend and witness the audit, the Jurisdiction Liaison must submit the name of the Jurisdiction's attendee in writing to the County Clerk within seventy-two (72) hours of its receipt of the above-described notice. If the Jurisdiction fails to meet this deadline, the County Clerk shall deem the failure to be a decision by the Jurisdiction not to witness the Election audit and will act on behalf of the Jurisdiction, as appropriate.

k. Election Canvass. On or before November 27, 2024, the County Clerk shall instruct and oversee the board of canvassers, who are responsible for conducting an Election Canvass and certifying the official abstract of votes cast for all candidates and Ballot Measures in the Election.

i. The County Clerk will notify the Jurisdiction of the date and time of the Election canvass, once it has been scheduled, and request confirmation as to whether the Jurisdiction intends to attend the canvass. If the Jurisdiction wishes to attend and witness the canvass, the Jurisdiction Liaison must submit the name of the Jurisdiction's attendee in writing to the County Clerk within seventy-two (72) hours of its receipt of the above-described notice. If the Jurisdiction fails to meet this deadline, the County Clerk shall deem the failure to be a decision by the Jurisdiction not to witness the Election canvass and will act on behalf of the Jurisdiction, as appropriate.

l. <u>Election Recount</u>. The County Clerk shall conduct an Election recount, if required by Applicable Law.

10. <u>Duties Subject to Jurisdiction Performance.</u> The responsibility of the County Clerk to perform the duties set forth above are contingent upon the Jurisdiction's performance of its own duties hereunder. The County Clerk shall not be responsible for failing to meet any deadlines for mailing the TABOR Book if such failure was caused by the Jurisdiction's failure to timely submit the required information in a form required by this Agreement and Applicable Law.

11. <u>Compliance with Deadlines.</u> The County Clerk may provide the Jurisdiction with a schedule of Election-related dates and deadlines. If the County Clerk provides such a schedule, the Jurisdiction shall comply with the deadlines included therein.

12. <u>Withdrawal/Cancellation</u>

a. The Jurisdiction may cancel an election of persons to office or withdraw a Ballot Measure only as permitted by Applicable Law.

b. If the Jurisdiction resolves to cancel an election to office or withdraw a Ballot Measure, the Jurisdiction shall do the following:

i. Provide the County Clerk with written notice of such determination immediately;

ii. Provide public notice by publication of such cancellation or withdrawal as required by Applicable Law; and

iii. Pay the County Clerk its actual costs incurred in connection with the cancelled election or withdrawn Ballot Measure, which may include costs incurred by the County Clerk both before and after receipt of the Jurisdiction's notice of cancellation or withdrawal. Such payment shall be due within thirty (30) days after the Jurisdiction's receipt of an invoice from the County Clerk for such payment.

c. The Jurisdiction must provide written notice of a cancelled election or withdrawn Ballot Measure no later than 12:00 p.m. on September 6, 2024 in order to have such election or Ballot Measure removed from the ballot.

13. Recordkeeping. The County Clerk shall store all Election records, including but not limited to all voted and unvoted ballots, voter affidavits, and Election Canvass and results reports for the required record retention periods under federal and state law.

14. Use and Confidentiality of Voter Records. The Jurisdiction shall be responsible for ensuring that any voter records received by the Jurisdiction are used for the sole purpose of performing its duties described herein. The Jurisdiction shall ensure that all voter records are maintained in accordance with the requirements of Applicable Law, including, without limitation, the Colorado Open Records Act, C.R.S. §§ 24-72-200.1, et seq.

15. Payment of Shared Election Costs. The Jurisdiction shall reimburse the County Clerk for the Jurisdiction's pro-rated share of the Shared Election Costs. The Jurisdiction's share of the Shared Election Costs shall be calculated in accordance with the formulas set forth in Exhibit A to this Agreement. The Jurisdiction's payment of its share of the Shared Election Costs shall be due within thirty (30) days after the Jurisdiction's receipt of an invoice from the County Clerk for such payment. Any amount not paid by the above-referenced deadline will be subject to an interest charge equal to (a) 1.5% per month; or (b) the highest rate permitted by law, whichever is lower.

16. Payment of Recount Costs. In the event of a required or requested Election recount, responsibility for the costs incurred by the County Clerk in connection with such recount shall be determined in accordance with C.R.S. §§ 1-10.5-101 and 1-10.5-106. If the Jurisdiction is responsible for any portion of such costs, payment of such portion shall be due within thirty (30) days after the Jurisdiction's receipt of an invoice from the County Clerk for such payment. Any amount not paid by the above-referenced deadline will be subject to an interest charge equal to (a) 1.5% per month; or (b) the highest rate permitted by law, whichever is lower.

17. Miscellaneous Provisions

a. Amendment. This Agreement may not be modified or amended except in writing signed by the Parties.

b. Entire Agreement. This Agreement and its exhibits constitute the entire agreement between the Parties as to the subject matter hereof and supersede all prior or contemporaneous agreements, proposals, negotiations, understandings, representations and all other communications, both oral and written, between the Parties.

c. Indemnification. The Parties understand and agree that liability for claims for injuries to persons or property arising out of the acts or omissions of either party is controlled and limited by the Colorado Constitution and the Colorado Governmental Immunity

Act (C.R.S. § 24-10-101, et seq.). Each party shall be responsible for any and all claims incurred as a result of any alleged act or omission of the said party and its employees, which occurred or is alleged to have occurred during the performance of their duties within the scope of their employment, except where such acts or omissions are willful and wonton.

d. Conflict with Law. In the event that any provision in this Agreement conflicts with Applicable Law, this Agreement shall be modified to conform thereto.

e. Time of Essence. Time is of the essence in the performance of this Agreement. Any deadlines or other time limits set forth in Applicable Law shall apply to completion of the tasks required by this Agreement.

f. No Third-Party Beneficiaries. Enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement shall be strictly reserved to the Parties, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other person or entity not a party to this Agreement.

g. Further Assurances. The Parties shall execute any other documents and to take any other action necessary to carry out the intent of this Agreement.

h. Governing Law; Jurisdiction & Venue. This Agreement and the rights of the Parties under it will be governed by, and construed in accordance with, the laws of the State of Colorado, without regard to the conflicts of laws and rules of Colorado. The courts of the State of Colorado shall have sole and exclusive jurisdiction of any disputes or litigation arising under this Agreement. Venue for any and all legal actions arising under this Agreement shall lie in the District Court in and for the County of Jefferson, State of Colorado.

i. Headings. The section headings in this Agreement are for reference only and shall not affect the interpretation or meaning of any provision of this Agreement.

j. Severability. If any provision of this Agreement is declared by a court of competent jurisdiction to be invalid, void or unenforceable, such provision shall be deemed to be severable, and all other provisions of this Agreement shall remain fully enforceable, and this Agreement shall be interpreted in all respects as if such provision were omitted.

k. Immunities Preserved. It is the intention of the Parties that this Agreement shall not be construed as a contractual waiver of any immunities or defenses provided by the Colorado Governmental Immunities Act, § 24-10-101, C.R.S., et seq.

l. Execution by Counterparts; Electronic Signatures. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. The Parties approve the use of electronic signatures for execution of this Agreement. All documents must be properly notarized, if applicable. All use of electronic signatures shall be governed by the Uniform Electronic Transactions Acts, C.R.S. §§ 24-71.3-101 to -121.

[The remainder of this page is intentionally left blank.]

The Parties hereto have signed this Agreement as of the date indicated below.

JURISDICTION:

By:
Name/Title:

Date:

JURISDICTION LEGAL COUNSEL – OPTIONAL

By:
Name/Title:

Date:

COUNTY CLERK:
CLERK AND RECORDER FOR THE
COUNTY OF JEFFERSON,
STATE OF COLORADO

By:
Amanda Gonzalez, Jefferson County Clerk & Recorder

Date:

APPROVED AS TO FORM:

Jean R. Biondi
Assistant County Attorney

EXHIBIT A

Shared Election Costs are divided into "TABOR Election Costs" and "Non-TABOR Election Costs." TABOR Election Costs are the costs of printing and mailing TABOR Books and are only allocated among the County Clerk and those jurisdictions that have Ballot Issues subject to TABOR, in accordance with Section I below. Non-TABOR Election Costs are all other Shared Election Costs and are allocated among the County Clerk and all coordinating jurisdictions in accordance with Section II below. If Jefferson County certifies ballot content in the form of candidate races and/or ballot measures, the County shall be considered a coordinating jurisdiction for purposes of allocation of costs in the Exhibit in addition to costs allocated to the County Clerk in accordance with Sections I and II below.

Please note that the dollar amounts used in this Exhibit A are for illustration purposes only and do not reflect actual or estimated costs of the Election.

I. Allocation of TABOR Election Costs

This section only applies to Jurisdictions with Ballot Issues subject to TABOR.

The costs incurred by County Clerk during the Election for printing and mailing TABOR Books (the "TABOR Election Costs") are allocated among the County Clerk and jurisdictions that have Ballot Issues subject to TABOR as follows:

1. First, the County Clerk sets a two-tiered per-page fee based on actual cost information from the most recent election's TABOR Book, with different fees for large and small coordinating jurisdictions. For the Election, the per-page fees are:
    a. Small Jurisdictions (less than or equal to 10,000 active, registered voters as of Election Day) = $2,000 per page
    b. Large Jurisdictions (more than 10,000 active, registered voters as of Election Day) = $3,000 per page
2. Next, the County Clerk counts the number of pages in the TABOR Book that contains information regarding each jurisdiction's Ballot Issues. The front and back covers, table of contents, and any pages containing voter information from the County Clerk's office will be counted as pages allocated to the County Clerk. Partial pages are included in the count for each jurisdiction the same as full pages.
    a. Example: Jurisdictions A and B had Ballot Issues in the Election. Jurisdiction A (a Large Jurisdiction) had 6 pages of information regarding its Ballot Issues in the TABOR Book, and Jurisdiction B (a Small Jurisdiction) had 3 pages of information for its Ballot Issues. The County Clerk includes 2 pages of information regarding voting locations, voter registration and is also allocated 3 additional pages for the TABOR Book covers and table of contents.
3. Finally, the County Clerk calculates each jurisdiction's total share of the TABOR Election Costs by multiplying its number of pages in the TABOR Book by the per page fee appropriate for its jurisdiction size. If the total amount due from all jurisdictions exceeds

the actual amount of the TABOR Election Costs incurred, the County Clerk will reduce the per-page fees proportionately.

   a. Example: The County Clerk is responsible for $15,000 in TABOR Election Costs (5 pages at $3,000 per page), Jurisdiction A is responsible for $18,000 in TABOR Election Costs (6 pages at $3,000 per page) and Jurisdiction B is responsible for $6,000 in TABOR Election Costs (3 pages at $2,000 per page).

II. <u>Allocation of Non-TABOR Election Costs</u>

All Shared Election Costs besides the costs of printing and mailing TABOR Books (the "Non-TABOR Election Costs") are allocated among the County Clerk and all coordinating jurisdictions as follows:

1. First, the County Clerk ascertains the total Non-TABOR Election Costs incurred during the Election.
   a. Example: The County Clerk incurred Shared Election Costs of $200,000 to administer the Election, of which $100,000 was incurred to print and mail TABOR Books, leaving a balance of $100,000 in Non-TABOR Election Costs.
2. Next, the County Clerk will determine the local portion of the Non-TABOR Election Costs (the "Local Portion") by subtracting out (a) the portion of the Non-TABOR Election Costs that will be reimbursed by the State of Colorado and other Election Participants whose reimbursements are determined by law and (b) 5 percent of the Non-TABOR Election Costs, representing the portion of these expenses covered by the County Clerk.
   a. Example: Because the Election included State-certified ballot content, the State will reimburse the County Clerk 45% of the Non-TABOR Election Costs, or $45,000. The County Clerk will cover another 5% of the Non-TABOR Election costs, or $5,000. The remaining 50% of the Non-TABOR Election Costs (or $50,000) constitutes the Local Portion.
3. Next, the County Clerk ascertains (a) the number of active, registered voters plus the number of property owners sent a ballot in each coordinating jurisdiction for the Election; (b) the total number of active, registered voters in the County; and (c) the percentage of the total active, registered voters that each coordinating jurisdiction (including the County) comprises, as of Election Day.
   a. Example: Jurisdictions A, B and C participated in the Election. Jurisdiction A has 300 active, registered voters, Jurisdiction B has 200 active, registered voters, and Jurisdiction C has 500 active, registered voters. Jurisdiction A comprises 30% of the total (300 out of 1,000), Jurisdiction B comprises 20% of the total (200 out of 1,000), and Jurisdiction C comprises 50% of the total (500 out of 1,000).
4. Finally, the County Clerk calculates each jurisdiction's share of the Local Portion of the Non-TABOR Election Costs by multiplying its percentage responsibility by the Local Portion.

   a. Example: Jurisdiction A is responsible for $15,000 of the Local Portion (30% of $50,000), Jurisdiction B is responsible for $10,000 of the Local Portion (20% of $50,000), and Jurisdiction C is responsible for $25,000 of the Local Portion (50% of $50,000).

III. Calculation of Total Amount Due

1. The County calculates the total amount due from each coordinating jurisdiction by adding the Jurisdiction's share of the Local Portion of Non-TABOR Election Costs to the Jurisdiction's share of the TABOR Election costs (if the Jurisdiction had a Ballot Issue subject to TABOR). Each jurisdiction is assessed a minimum of $1,000, so if this total is less than $1,000, the jurisdiction would be assessed $1,000.
   a. Example: Jurisdiction A owes $18,000 in TABOR Election Costs and $15,000 in Non-TABOR Election costs, which totals $33,000. Jurisdiction B owes $6,000 in TABOR Election Costs and $10,000 in Non-TABOR Costs, which totals $16,000. Jurisdiction C owes $0 in TABOR Election Costs and $25,000 in Non-TABOR Election Costs, which totals $25,000.

STAFF MEMO

DATE OF MEETING: AUGUST 12, 2024 / AGENDA ITEM NO. 11

To: Mayor and City Council

From: Alison McKenney Brown, City Attorney

Subject: **ADOPTING BOB'S RULES AS THE PROCEDURAL RULES OF THE CITY COUNCIL**

SUMMARY STATEMENT: Following the City Council's discussion at the July 15th Study Session where the Council recommended changes to the Council's Policies and Procedures, the body determined to move forward with the adoption of new rules of parliamentary procedure. Accordingly, Ordinance O-2024-19 amends Title 2, Section 2.02.020, of the Lakewood Municipal Code to adopt Bob's Rules of Order (attached) as the procedural rules for future City Council meetings.

BACKGROUND INFORMATION: With the goal of enhancing transparency and streamlining meeting procedures, the City Council has decided to consider adopting Bob's Rules of Order for Colorado Local Governments. The City Council currently operates under Robert's Rules of Order, which are a generic set of parliamentary procedures and more suited for fraternal organizations.

Instead, Bob's Rules of Order provide clarity and relevance to municipal meetings in Colorado. For example, Bob's Rules of Order are published by the Colorado Municipal League and offer simplified parliamentary procedures tailored to the specific needs of Colorado local governments. These rules will also better serve the Council and the community by providing straightforward and streamlined procedures that align with the requirements of the City Charter, the Lakewood Municipal Code, and City Council's revised Policies and Procedures.

BUDGETARY IMPACTS: None

STAFF RECOMMENDATIONS: Staff recommends the adoption of Ordinance O-2024-19.

ALTERNATIVES: The City Council could decide not to adopt Ordinance O-2024-19 designating Bob's Rules of Order as the Council's rules of parliamentary procedure.

PUBLIC OUTREACH: This item has been promoted through the regular communication channels to be considered by the Lakewood City Council.

NEXT STEPS: If adopted, City staff will begin the implementation of Bob's Rules of Order.

ATTACHMENTS:
1. Ordinance O-2024-19
2. Bob's Rules of Order

REVIEWED BY: Kathleen E. Hodgson, City Manager
Benjamin B. Goldstein, Deputy City Manager
Alison McKenney Brown, City Attorney

O-2024-19

AN ORDINANCE

AMENDING TITLE 2, SECTION 2.02.020, OF THE LAKEWOOD MUNICIPAL CODE TO ADOPT BOB'S RULES OF PROCEDURE AS THE PROCEDURAL RULES OF THE CITY COUNCIL AND REVISE OTHER ANCILLARY PROVISIONS

WHEREAS, the City of Lakewood ("Lakewood" or "City") is a home rule municipality organized under Article XX of the Colorado Constitution and the authority of the Home Rule Charter for the City of Lakewood (Charter);

WHEREAS, Sections 1.2 and 2.1 of the Charter vests all municipal legislative powers in the City Council, and authorizes the City Council to establish those laws necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort, and convenience of such municipality and the inhabitants thereof;

WHEREAS, adopting procedural rules governing meeting procedures that are straightforward, understandable and applicable to the special requirements of an elected body is a critical step in establishing and maintaining transparency between the elected body and the citizens it serves;

WHEREAS, rules of parliamentary procedure serve as the basis for administering the meetings of all elected or appointed bodies of the City of Lakewood, and Bob's Rules recognizes that standard rules of parliamentary procedure are modified by the requirements of the City Charter of Lakewood, the provisions of the Lakewood Municipal Code, the provisions of the City Council Policies and Procedures, the requirements of the Colorado Open Records Act, and the requirements of the Colorado Open Meetings Law;

WHEREAS, Bob's Rules of Order for Colorado Local Governments, as published by the Colorado Municipal League, provides simplified parliamentary rules for public meetings tailored to the specific needs of Colorado local governments, unlike the more traditional Robert's Rules of Order which are more generic and are written primarily for meetings of private groups and entities;

WHEREAS, approval of this ordinance on first reading is intended only to confirm that the City Council desires to comply with the Lakewood Municipal Code by setting a public hearing to provide City staff and the public an opportunity to present evidence and testimony regarding the proposal; and

WHEREAS, approval of this ordinance on first reading does not constitute a representation that the City Council, or any member of the City Council, supports, approves, rejects or denies the proposal.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Lakewood, Colorado, that:

SECTION 1. Amendment of Title 2, Chapter 2. Title 2, Chapter 2, Section 2.02.020 of the Lakewood Municipal Code shall be amended as follows:

A. The City Council adopts the City Council Policy and Procedures Manual by resolution.~~; and t~~The City Clerk is authorized and directed to keep in the City Clerk's Office, and to provide for inspection and examination at all times when the City Clerk's Office is open for business, not less than one certified copy of the City Council Policy and Procedures Manual as the same may hereafter be revised pursuant to resolution of the City Council~~, which copies are designated as t~~ The official ~~copies~~ version of the Council Policy and Procedures Manual shall be the last version adopted by the City Council, including all subsequently adopted amendments.

B. The City Council ~~ratifies, adopts and confirms its previous adoption of Robert's Rules of Order, as revised and newly revised~~ hereby adopts Bobs Rules of Order (2023), as may be revised by resolution of the City Council, as the official rules of procedure for meetings of the City Council and all appointed boards, commissions and committees. On and after October 1, 2024, all references to Robert's Rules of Procedure set forth within any and all Codes, Regulations, or Bylaws of the City shall be interpreted to be referencing Bob's Rules of Procedure in compliance with this paragraph.

C. The policies and procedures adopted in subsection (A) of this section shall at all times be subject to the provisions of the United States Constitution and laws of the United States, the Constitution of the state, the applicable statutes of the state, and to the provisions of the City of Lakewood Charter, municipal ordinances and resolutions of the city, whether heretofore or hereafter adopted. In the event of conflict between any procedural rule or policy contained in the City Council Policy and Procedures Manual and the provisions of ~~Robert~~Bob's Rules of Order as revised and newly revised, the provisions of the City Council Policy and Procedures Manual shall govern.

D. In the event of conflict between any procedural rules of ~~Robert~~Bob's Rules of Order as revised and newly revised, or between any provision of the City Council Policy and Procedures Manual and any constitutional provisions, law, statute, or ordinance or resolution heretofore or hereafter adopted, the provisions of the state and federal constitutions, laws, statutes and the ordinances and resolutions of the city, heretofore or hereafter adopted, shall govern.

SECTION 2. This ordinance shall take effect thirty (30) days after final publication.

SECTION 3. If any provision of this Ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this Ordinance that can be given effect without the invalid portion, provided that such remaining portions or application of this Ordinance are not determined by the court to be inoperable.

I hereby attest and certify that the within and foregoing ordinance was introduced and read on first reading at a hybrid regular meeting of the Lakewood City Council on the 22nd day of July, 2024; published by title in the Denver Post and in full on the City of Lakewood's website at www.lakewood.org, on the 25th day of July, 2024; set for public hearing to be held on the 12th day of August, 2024; read, finally passed and adopted by the City Council on the 12th day of August, 2024; and signed by the Mayor on the __ day of August, 2024.

____
Wendi Strom, Mayor

ATTEST:

____
Jay Robb, City Clerk

APPROVED AS TO FORM:

____
Alison McKenney Brown, City Attorney

Bob's Rules of Order for Colorado Local Governments

SIMPLIFIED PARLIAMENTARY RULES FOR PUBLIC MEETINGS

Robert C. Widner

Widner Juran LLP
ATTORNEYS AT LAW

COLORADO MUNICIPAL LEAGUE

BOB'S RULES OF ORDER

for Colorado Local Governments

BOB'S
RULES OF ORDER

for Colorado Local Governments

SIMPLIFIED PARLIAMENTARY RULES
FOR PUBLIC MEETINGS

PEAK NINE
PRESS

ROBERT C. WIDNER

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Bob's Rules of Order does not provide legal advice. This publication is a source of information for the reader and is not meant as a substitute for legal counsel. Please contact your attorney for assistance.

An Open Invitation

Bob's Rules of Order will be periodically updated through new editions as efficient meeting practices become known and to correct or supplement the *Rules.* The author invites anyone using *Bob's Rules* to pose questions, offer ideas, and make suggestions to improve the *Rules* to serve our shared goal of serving the public through our local governments.

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Appendices

PREFACE

Sitting in countless public meetings for a variety of local governments over more than 30 years, I noted that many governments formally adopted *Robert's Rules of Order* to govern their meetings. Other governments never formally adopted rules of order but nevertheless referred to *Robert's Rules* as their guiding rules of order.

However, none of the local governments followed all the requirements of *Robert's Rules*. Instead, they followed practices based on what they believed *Robert's Rules* required. The governments proposed and seconded motions, engaged in discussion and debate, and voted on motions. They followed only a small part of *Robert's Rules*. In doing so, they unknowingly ignored many of the rules' specific requirements or they incorporated practices and procedures into their meetings that directly conflicted with the requirements of *Robert's Rules*. Admittedly, these practices and procedures worked because the governments accomplished their business. It was the successful meeting practices based on a belief of what *Robert's Rules* required, and the deviations from *Robert's Rules*, that served as the genesis of *Bob's Rules of Order*.

Bob's Rules of Order is based on some of the commonly accepted ideas, methods, and procedures first offered by *Robert's Rules* in 1876. In this regard, *Bob's Rules* may not be entirely original or innovative. I trust, however, that local governments will view *Bob's Rules* as original and innovative due to its tailoring of rules and procedures to the specific needs of Colorado local governments. I know of no uniform or standardized set of meeting rules tailored to the common practices and special needs of Colorado local government. It is this void that *Bob's Rules of Order* hopes to fill.

Lastly, *Bob's Rules* is my attempt to support what I believe to be the most efficient and responsible form of government. I am continually impressed by the unwavering dedication of local governments in serving the needs of citizens. No other form of government does more with the taxpayers' dollars, and no other government, in my view, cares as directly and personally about the welfare of its citizens. It is my hope that *Bob's Rules of Order* can aid in the continuing success of our local governments well into the future.

Bob Widner

INTRODUCTION

Public meetings are critically important to local government. Often, a public meeting is a citizen's only opportunity to directly observe the workings of their government.

An efficient meeting allows all scheduled business to be accomplished, voices to be fairly and equitably heard, and differences of opinion to be aired amicably. Whether the issues at hand are challenging and evoke intense emotion or they are simply administrative and non-confrontational, a well-run meeting leaves all participants feeling that the decisions made during the meeting were the products of organization, fairness, equity, and respect. An efficient and well-run public meeting can aid in building the public's confidence and trust in local government.

A poorly run meeting displays a degree of dysfunction that causes citizens to believe that all aspects of the government are equally dysfunctional. Such a meeting can also lead to inequity among participants when engaged in discussion and debate, create conflict and argument between the participants, and inject confusion into the decision-making process. In short, a poorly run meeting may result in decisions that appear to lack a thorough evaluation of the issues while also undermining the public's confidence and trust in local government.

Rules of order[1] are vital to an efficient public meeting. They provide processes and procedures that are pre-designed to create organization, to promote fairness among participants, and to lead to a more thorough evaluation of the issues raised at the meeting. In doing so, they lead to more justifiable and supportable decisions.

Local government rules of order must be carefully prepared. The rules must demonstrate an understanding of the local government's specialized purpose and recognize the specialized laws that limit and guide the exercise of the government's authority.

Rules of order that are overly complex will not be consistently followed and can prove to be ineffective in the conduct of a meeting. Rules of order that are easily understandable with a scope appropriate for the actions customarily undertaken by the decision-making body will more than likely be routinely followed by meeting participants. When routinely followed over longer periods of time, the rules become an accepted part of the fabric of the decision-making process and will readily survive future changes in the membership of the decision-making body.

Robert's Rules Of Order

When considering the possible adoption of a set of meeting rules, *Robert's Rules of Order* is often a suggested starting point. *Robert's Rules* is the most widely known set of general parliamentary[2] rules.

Robert's Rules of Order is a remarkable work. Beginning with the pocket handbook first published in 1876, and with significant rewriting and amendment since that time, *Robert's Rules of Order*[3] evolved into a complex tool for meeting management.[4] The 12th edition of *Robert's Rules* totals 803 pages[5] and offers 98 motions[6] and dozens of procedural rules, many of which are subject to exceptions. At least two dozen publications are available to help meeting participants better understand, interpret, clarify, and decipher *Robert's Rules*, including a *Robert's Rules for Dummies*[7] and a *Complete Idiot's Guide to Robert's Rules*.[8] Several websites are also available, offering various and sometimes conflicting opinions on the proper application of *Robert's Rules*.

Although *Robert's Rules* are available for use in meetings of all types, the typical local government meeting does not benefit from complex rules. The business of local government is to get business done. The business of local government is not to engage in debate about the appropriate application of 98 motions and 803 pages of rules.

Most importantly, *Robert's Rules* does not incorporate the specialized meeting mandates and requirements imposed upon local government by the state's legislature, local charters, and local laws. *Robert's Rules* provides no aid to local governments in meeting the obligations of the Colorado Open Meetings Law. And the largest shortcoming of *Robert's Rules* is its lack of recognition of the specialized nature and needs of the quasi-judicial process that many local government bodies must follow. *Robert's Rules* mentions the term "quasi-judicial" when identifying that certain boards have different duties, but it offers no processes or procedures designed to manage a quasi-judicial hearing.

Robert's Rules of Order is not a suitable resource to manage the common local government meeting, with an exception for the most sophisticated and largest of governmental bodies exclusively engaged in legislative decision making. *Robert's Rules* is most suitable for an exceptionally large deliberative or legislative body where a knowledgeable, experienced, or certified[9] meeting parliamentarian can direct the meeting in compliance with the rules. Again, *Robert's Rules* is a remarkable work for such a purpose.

Notwithstanding the shortcomings of *Robert's Rules of Order*, many local governments have formally adopted *Robert's Rules* for their local parliamentary procedure. The decision to adopt *Robert's Rules* is rarely the result of a comprehensive understanding of its requirements and a deliberate determination that the rules will mesh with local needs. Instead, the decision to adopt *Robert's Rules* often assumes that the rules will best guide meeting procedure because the rules are a widely known set of parliamentary rules. And, unfortunately, there are no other parliamentary rules specifically designed for local government meetings.[10]

For those local governments that have adopted *Robert's Rules of Order*, it is troubling that few of the local government officials or administrative staff have read *Robert's Rules*. Even fewer know that *Robert's Rules* contains processes and procedures that the local government might find unacceptable,[11] that may be deemed overly complex and inconsistent with commonly accepted local meeting practices,[12] or that conflict with the laws applicable to local government meetings.[13] Equally troubling is that the local officials are rarely provided a copy of *Robert's Rules*, that *Robert's Rules* is rarely available for reference during a meeting, and that *Robert's Rules* is rarely cited during a meeting. Colorado local governmental bodies purporting to use *Robert's Rules* follow a process that they believe to be consistent with *Robert's Rules* but which, in practice, is not.

Other Meeting Rules of Order

Along with *Robert's Rules of Order*, there exist another dozen or more published handbooks and manuals available to guide meetings.[14] The vast majority of these publications recite the provisions of *Robert's Rules* and attempt to simplify *Robert's Rules*. The stated goal for many of these publications is to deliver a universally applicable set of rules available for use for all types of meetings, large and small. Nevertheless, these publications often caution that the rules must be modified—or even ignored—to address meetings of specialized bodies or to address special provisions of law. This caution is warranted for local governments because these various sets of purportedly uniformly applicable rules, as with *Robert's Rules*, do not demonstrate an understanding of the challenges and the legal requirements of the local government public meeting.

CHAPTER 1
BOB'S RULES OF ORDER

The Purpose of *Bob's Rules of Order*

Bob's Rules of Order for Colorado Local Governments implements the recognized authority of local governments to enact their own rules to manage the conduct of meetings.[15] Additionally, *Bob's Rules* is intended to serve as a tailored and, when compared to *Robert's Rules of Order*, a more simplified set of parliamentary rules designed specifically to meet the needs of Colorado local government. The *Rules* reflect the basic ideas and methods historically ingrained within meeting practices by the original 1876 version of *Robert's Rules*. Most importantly, *Bob's Rules* limits the available motions to those essential to advance the goal of running a more organized and efficient local government meeting.

Bob's Rules is prepared for use by the governing bodies of the various forms of local government—the city council or the board of trustees for home rule and statutory municipalities and the board of county commissioners for counties. *Bob's Rules* may also directly aid the various supporting and advisory boards, commissions, and committees of local government that engage in formal decision making, such as the planning and zoning commission, board of adjustment, board of review, and the various types of local licensing authorities. Special districts, governmental authorities, and quasi-governments may also find the use of *Bob's Rules* beneficial subject to changes to address any special needs of those organizations.

Applicability to Video Conferencing or "Remote Meetings"

Beginning with the COVID pandemic in 2020, various online video conferencing platforms, such as Zoom, Microsoft Teams, Adobe Connect, GoToMeeting, and Facebook Messenger, gained significant popularity and achieved widespread use in conducting local government meetings. Due to this popularity, as well as the ease of use and convenience to citizens, it is not anticipated that the use of online video conferencing platforms will diminish. Many local governments have included video conferencing (also called remote or virtual meetings) in the available options for holding public meetings.

The use of *Bob's Rules of Order* is compatible with a video conference meeting format.[16] These meetings provide an online meeting room in which people from remote locations can assemble and engage in two-way communication. The format of a video conference meeting is not significantly different than the in-person meeting historically used by local government.

Admittedly, a video conference meeting presents challenges for the Presiding Officer when managing fair access to the meeting's microphone by multiple parties, and the meeting is highly dependent on the successful operation of the software application and audio-visual equipment supporting the meeting. Video conference meetings can be less formal when compared to an in-person meeting due to the ability to easily leave the virtual meeting room or hide from view and to engage in multitasking. Notwithstanding these challenges, the rules and practices offered by *Bob's Rules of Order* will enable the Body in a video conference meeting to efficiently accomplish public business. One might argue that, because the interactions among participants in a video conference meeting can be more difficult for the Presiding Officer to manage, the use of rules of order that will guide the

Members' conduct is even more necessary for a video conference than an in-person meeting.

The Benefit of Rules of Order

Rules of order assist in enhancing fairness among meeting participants, providing necessary support when defending the decision-making process, and promoting meeting efficiency.

Fairness and Transparency

It is an unquestionable goal of local government to be fair in the administration of governmental powers, programs, and affairs. Fairness is an important element in the protection of the public's confidence in government. Moreover, providing fairness to meeting participants is a constitutional obligation imposed on government by procedural due process.[17] Fairness exists where similarly situated persons are treated in a similar fashion. Written rules of order, when consistently applied, will best advance the goal of fair treatment of all meeting participants.

The fairness provided by using pre-established rules of order adds transparency to the decision-making process. Considering agenda items in an improvised or ad hoc manner will appear to the public as arbitrarily applying different rules to different persons and to different issues. Decisions made informally can also appear to the public as the likely product of negotiation between the decision makers outside of the public meeting or hearing. In contrast, a decision reached through a somewhat formal, consistent, and uniform application of pre-established rules of order will often be viewed as extending fair and equal treatment to each of the matters presented to the Body.

Rules provide fairness to the Members of the decision-making Body. Some Colorado governments have not adopted formal rules to guide decision making. These governments render decisions through a largely informal process that, after some unstructured discussion, culminates in a motion placed before the Members for a vote. Perhaps not apparent to the meeting participants, the informal and "rule-less" process involves one or a few of the Members exercising greater control or power over the decision-making process. The more vocal, the more assertive, and the more experienced Members can often dominate the discussion and debate. The unstructured meeting can lead to confusion among the Members as to "what we should do next" and will oftentimes allow the Presiding Officer to exercise an inappropriate degree of control and influence over the meeting processes and the meeting outcome.

The absence of procedural rules can effectively quiet Members' voices. The Presiding Officer maintains significant power to control the Members' access to the Floor. In the absence of rules that protect the Members' right to the Floor, the Presiding Officer can ignore a Member's request to address the Body. And, absent a rule recognizing a right of appeal of the Presiding Officer's decisions, there is no recourse for the Member who feels disenfranchised by a decision of the Presiding Officer. Written rules that confer upon the Members of the Body an equal opportunity to participate in a meeting can inject into the decision-making process a greater degree of fairness.

Defending the Decision-Making Process

Along with fairness, rules are necessary to ensure legally defensible decisions. Government must always act in accordance with the law, and the law is invariably written.[18] When government acts in accordance with the law, which includes the rules that govern the government's meeting processes, it is a straightforward exercise to determine whether the government complied with the law. Compliance with procedural rules will oftentimes lead to the finding of a valid and enforceable action or decision, and, conversely, where there exists no law that authorizes the government's procedure, the government's action will be subject to challenge.[19] Written rules that support each procedural action undertaken by government serve an important, if not legally necessary, purpose.

Efficiency

Meeting efficiency is an obvious result of the consistent application of written rules of order. By following written rules designed to move the Body from introduction of an issue to a final decision, the Body will more often "stay on track" during the meeting.

It is inefficient for Members to repeatedly ask about the proper process to follow in each situation, to question or debate the appropriateness or suitability of a proposed unwritten practice, or to delay or postpone a decision to determine whether a particular process has been followed in the past in a similar circumstance.

Written rules allow the Members of the Body to understand that there is a pre-determined and accepted process for the meeting. Members will each know "what's next" as the decision-making process unfolds. The consistent use of pre-approved rules enables the Members to focus not on the process but on the information, discussion, and debate that can lead to an acceptable decision. Written rules offer greater process certainty and, as a result, greater meeting efficiency.

The Need for Some Flexibility

Most local governments do not operate comfortably or effectively in the face of rigid and inflexible procedural requirements. A local government meeting will often involve a degree of unanticipated or unforeseen situations that require deviation from an accepted rule. In addition, rigid and inflexible adherence to rules can undermine the Body's camaraderie and collaboration and may allow the Body's more educated or experienced Members to use strict rule application to control or stifle the participation of other Members. A degree of flexibility in the rules can help aid meeting efficiency when the flexibility will not diminish the quality of the decision-making process.

Bob's Rules of Order provides some flexibility and seeks to enhance efficiency by the following processes or procedures:

- The Presiding Officer maintains the discretion to unilaterally forgo or modify a rule and to take actions to improve the efficiency of the meeting subject to a Point of Order or Point of Appeal. See Rule 3.4.
- A formally stated motion is not always necessary, and a Member may instead use the exclamation "so moved" as an abbreviated form of motion. See Rule 5.1.
- A "Friendly Amendment" of a debatable motion is authorized, which would allow the Presiding Officer to forgo a formal Motion to Amend in the absence of an objection by a Member. See Rule 6.1.
- A "Friendly Withdrawal" of a debatable motion is authorized to allow for the informal removal of the motion from the Floor in the absence of an objection by a Member. See Rule 6.2.
- Suspending the application of certain rules is authorized at the discretion of the Presiding Officer or upon approval of a motion by the Body for any given agenda item or for the entire meeting. See Rules 8.1 and 8.2.
- The Body's deviation from a rule is deemed authorized when the deviation is inadvertent and non-substantive and does not receive an objection from a Member. See Rule 8.3.

Integration with Bylaws

It is important to recognize both the difference and the interplay between rules of order and what may be commonly known as the Body's "bylaws" or the principal policies governing the Body.[20] Bylaws, which may be known by many different titles[21] and which may include requirements of state law and home rule charters, are the government's local written ordinances, resolutions, or policies prepared for the purpose of governing the Body's purpose, structure, leadership, and organization. Bylaws are tailored to the specific purposes and needs of the Body. The bylaws for most local government bodies will typically address many of the following topics:

- ✦ The purpose of the Body.
- ✦ The voting membership and any alternate membership of the Body.
- ✦ Identification of the Body's officers and the officers' duties.
- ✦ Identification of support staff (clerk, attorney) and associated roles.
- ✦ Types of authorized meetings (regular, special, study session, etc.).
- ✦ Form of meetings (in person, telephonic, remote, or hybrid[22]).
- ✦ Agenda preparation.
- ✦ Meeting and hearing procedures and processes.
- ✦ Consent agenda availability and process for approval.
- ✦ Adoption of rules of order for decision making.
- ✦ The public's opportunity to speak to the Body.
- ✦ Rules or guidelines to protect meeting decorum.
- ✦ Specialized public notice requirements for meetings.
- ✦ Quorum requirements.

- Voting methods (i.e., use of roll call or voting machines).
- Recording and taking of minutes.
- Member attendance requirements and excused absences.
- Conflicts of interest and appearances of impropriety.
- Removal of a Member from the Body.
- Creation of and requirements for committees and subcommittees.
- Other matters to guide the Body's effective operation.

Given the differences between governmental bodies, it may be a rare instance that two sets of bylaws will be identical. Bodies differ as to their purpose, authority, composition, and resources, thereby necessitating bylaws that are tailored to each Body. Bylaws are typically not interchangeable for use between different bodies.

In contrast to bylaws, rules of order are the specific procedures necessary to open, consider, debate, and decide a matter presented to a Body. Because rules of order focus on the basic or common process for decision making (motion, debate, voting), the same set of rules of order can be used by different decision-making bodies.

Rules of order may, however, implicate or relate to matters addressed in the bylaws. For example, both the bylaws and the rules of order may address various aspects of voting. Bylaws may address the circumstances that constitute a conflict of interest, while the rules of order may direct that a Member with a conflict of interest may not vote on a motion. Also, bylaws will set the Body's quorum requirement for each type of meeting, and the rules of order will define how the absence of a quorum will affect the ability to hold a meeting or to consider an agenda item.

One key difference between bylaws and rules of order is the ease by which these two documents may be changed or their requirements suspended. Bylaws cannot be easily suspended on a case-by-case basis because the bylaws set forth the principal policies and critical controls over the Body's exercise of its authority. In a sense, the bylaws "hardwire" the key requirements of the Body's organizational structure and its authority. As an example, the Body cannot decide on a case-by-case basis to summarily suspend the bylaw requirements concerning a conflict of interest or to adjust the quorum requirement for a particular agenda item. These matters are essential or basic requirements for the Body's exercise of its power and authority. Rules of order, on the other hand, may be changed or suspended more readily to accommodate a specialized question, situation, or issue presented to the Body during the consideration of a matter—that is, if the rules of order accommodate such change or suspension.

Although they serve different purposes, there is a direct interplay or connection between the bylaws and rules of order. The bylaws will adopt a recognized set of procedural rules of order for use by the Body in its decision-making process, such as *Bob's Rules of Order.* The adopted rules of order, in turn, may authorize the Body to use a Point of Order and, as to any Presiding Officer's decision, a Point of Appeal to ensure that the Body follows the applicable provisions of the bylaws. See Sections 11.0 and 13.0.

How *Bob's Rules* May Change Current Meeting Practices

Because *Bob's Rules of Order* incorporates many of the common meeting practices of many Colorado local governments, there may not be significant changes for most local government bodies in the local practices following the adoption of *Bob's Rules*. However, there are some rules or procedures offered by *Bob's Rules* that, for some local governments, may present a change.

Most notably among the potential changes in terminology, rules, or practices would be the following:

- ✦ Principal Motion. Many local rules of order, as well as *Robert's Rules of Order*, employ the phrase "main motion" to identify the motion that offers to the Body a general proposition or question to be decided.[23] The phrase "main motion" is also used by *Robert's Rules* to classify other motions for purposes of priority.[24] This dual and inconsistent use of the phrase "main motion" can result in confusion.

  Bob's Rules seeks to avoid this confusion by limiting the use of the phrase "main motion" to the determination of a motion's classification and its priority. Then, *Bob's Rules* employs the phrase "Principal Motion" to refer to a general business motion. See Section 9.0, Class and Priority of Motions, and Section 15.0, Principal Motion.

- ✦ So Moved Motion. Some local governments allow a Member to quickly propose a motion by the expression "so moved." This practice is available where all Members of the Body readily understand the purpose and scope of the motion based on the immediately preceding discussion. However, for most local governments, the So Moved Motion is entertained without any formal rule authorizing the practice. *Bob's Rules* formally authorizes this practice subject to limits to ensure efficiency. See Rule 5.1.

- ✦ Friendly Amendment. *Bob's Rules* recognizes the informal practice used by some local governments of a "Friendly Amendment." A Friendly Amendment is a simplified means of amending a debatable motion. The Friendly Amendment is an alternative to the use of a formal Motion to Amend. See Rule 6.1 and Section 17.0.

- Friendly Withdrawal. *Bob's Rules* authorizes the Body to forgo the need for a formal motion to withdraw a debatable motion from the Floor and instead authorizes the use of a "Friendly Withdrawal." Consistent with its use by some local governmental bodies, the Friendly Withdrawal is available when it is evident to the entire Body that the pending debatable motion is no longer needed or useful in reaching a decision. See Rule 6.2.
- Discussion Allowed Without a Motion on the Floor. Some local governmental bodies follow the mandate of *Robert's Rules of Order* that no substantive discussion may proceed without a formal motion on the Floor. Because this mandate is inconsistent with the exceedingly common practice of most local governmental bodies and can be counterproductive, *Bob's Rules* authorizes, but does not require, discussion without a formal motion. See Rule 1.5.
- Presiding Officer Discretion and Unanimous Consent. *Bob's Rules* authorizes the Presiding Officer to exercise discretion in making decisions during the conduct of the meeting. Absent an objection from a Member (that is, where there is unanimous consent by the Body), the Presiding Officer's decision will be effective. As for all decisions by the Presiding Officer, a Point of Order or Point of Appeal can formally challenge the Presiding Officer's compliance with the *Rules*. In addition, a simple objection from one Member can deny the Presiding Officer the authority to approve the use of the So Moved Motion, a Friendly Amendment, or a Friendly Withdrawal. See Rules 5.1, 6.1, and 6.2.

Incorporating *Bob's Rules* into Meeting Practice

Starting Point – Legal and Other Advice

When deciding to adopt rules of order to guide meetings, local governments should first seek the advice of their local legal counsel.

The local legal counsel is best suited to understand how any proposed procedural rules will coordinate with the laws affecting the local government, the government's common or historic meeting practices, and the special needs of the Body. It is not a best practice to blindly adopt or apply *Bob's Rules* without consulting the government's legal counsel.

The advice and counsel of the experienced local government clerk, manager, or administrator is also important. Clerks, managers, and administrators can provide invaluable insight into the historical practices of the local government and can highlight potential practice issues and conflicts arising from the implementation of new procedural rules.

Adoption of *Bob's Rules*

Bob's Rules of Order is available for incorporation into the local government Body's meeting practice. Where the local government has yet to adopt bylaws or another policy governing meetings, *Bob's Rules* may be adopted by either a resolution or an ordinance, depending on the advice of the Body's legal counsel.[25]

Where the local government previously adopted bylaws or another policy document governing the Body's organization and operation, the bylaws or policy document can adopt *Bob's Rules* by simple reference in the bylaws or policy. The reference can also address potential conflicts between the bylaws and the adopted rules of order. This reference might be stated as:

> *Bob's Rules of Order for Colorado Local Governments* (2023) is adopted as the rules of order for meetings of the [insert name of the Body]. In cases where the adopted edition of *Bob's Rules of Order* is inconsistent with these bylaws

and local rules of procedure, the bylaws and local rules of procedure shall govern and control.

Although *Bob's Rules* can be adopted without change or modification, its rules are not intended to be adopted without the local government's careful review of the appropriateness of the *Rules* for local meeting practices.

As a recommended process for the consideration and possible adoption of *Bob's Rules of Order*, the Body may wish to follow the ensuing procedure:

- ✦ The Body or a subcommittee of the Body, together with key administrative staff (a "Rules Committee"), should meet to review the entirety of *Bob's Rules of Order*. The Rules Committee should start with the basic question of whether *Bob's Rules* is generally appropriate for the Body's use and will be an improvement over the current adopted meeting procedures.
- ✦ If there is initial interest in incorporating the use of *Bob's Rules* into the Body's meeting practice, the Rules Committee should consider whether the Body currently follows or uses a form of each rule, point, and motion and, if so, whether the Body's current procedure is consistent with or deviates from the rule, point, or motion. The Rules Committee should identify any modifications or deletions of any rule, point, or motion that would best serve the Body's meeting practices[26] should the *Rules* be adopted.
- ✦ Following a complete review of *Bob's Rules*, the Rules Committee should determine whether *Bob's Rules*, with any needed modifications or deletions, should be recommended to the Body for adoption. Additionally, a determination should be made whether any modifications or revisions to any previously adopted

bylaws are necessary to ensure harmony between the bylaws and the adopted *Rules*.

- If adoption of *Bob's Rules* is recommended by the Rules Committee, the Body's legal counsel should be consulted to recommend a procedure or method for adoption. The adopting document should include any identified modifications or deletions to the rules, points, and motions necessary to meet the Body's needs.[27]
- The adopting document should be presented to the appropriate Body or official authorized to adopt rules of procedure for the Body.

Training and Education

Together with formal incorporation of *Bob's Rules of Order* into meeting practice, the Members of each Body and any administrative and legal staff who will assist the Body in the use of the rules must necessarily understand the operation of the *Rules*.

It is hoped that *Bob's Rules* is sufficiently simplified that, after one or two thorough readings, a Member will understand the basics and, with time and practice, will become fully versed in the proper application of the *Rules*. Admittedly, procedural rules of order are not scintillating reading material. As a result, some more active introduction and training may be necessary to assist Members in the effective use of *Bob's Rules*.

A recommended process for training Members of a Body and administrative staff may include the following steps:

- A personal copy of *Bob's Rules* should be provided to each Member of the Body and each supporting staff member who may assist in the meeting process.

- Each Member of the Body and each staff member should thoroughly read the *Rules* once and, based on a self-assessment of comprehension and understanding, possibly read the *Rules* again.
- The Presiding Officer (and the Body's designated parliamentarian if the role is assigned to another person) should study the *Rules* in depth and gain a comprehensive and working knowledge of all rules and processes.
- Members should engage in discussion and roleplaying involving meeting scenarios facilitated by either the Presiding Officer or a staff member well acquainted with the *Rules of Order*. These roleplaying and "walk-through" exercises can allow the Body to gain experience and confidence in the application of the *Rules*.
- Training should emphasize the discretion afforded the Presiding Officer and the use of the primary points (Order and Information), as well as the motions that will be most frequently used by the Body. These motions include the Principal Motion, the So Moved Motion, the Motion to Amend, the Motion to Continue or Postpone, the Friendly Amendment and Friendly Withdrawal, and the Motion for Executive Session.
- Following formal adoption of the *Rules*, the Body should take opportunities to review sections of the *Rules* when time permits during meetings. In addition, it may prove helpful for the Body's legal counsel or other senior staff member to debrief the Body regarding the successes and deficiencies in the Body's use of the *Rules* following a meeting in the context of an actual decision.[28]
- A copy (possibly laminated) of the Summary of Rules and the Matrix of Points and Motions found at the end of this handbook at Appendices B and C can be permanently placed at each position of the dais for the Members' ease of reference.

CHAPTER 2
TERMINOLOGY

Some words and phrases used in *Bob's Rules of Order* convey a specific meaning when referring to a practice, an action, or a person involved in a meeting. The *Rules* capitalize some of these words and phrases (e.g., "Body," "Presiding Officer," "Member," and "Floor") to remind the reader that the word or phrase holds a specifically defined meaning.

Agenda Item

An issue, topic, matter, case, application, or other subject to be addressed by the Body during a meeting. An agenda item includes items initially listed on the meeting agenda as well as items later added to the meeting agenda in accordance with the Body's bylaws or other meeting policy or practice.

Amendment (or to Amend)

An action to change, to add words to, or to omit words from a debatable motion on the Floor. The amendment is usually intended to clarify or improve the wording of the original motion.

Body

The council, board, commission, or other formally constituted organization that adopted these rules of order to govern the organization's meetings.

Debatable Motion

A motion that is subject to debate by the Body in accordance with the rules of order. The debatable motions are the Principal Motion, Continue or Postpone, Amend, Reconsider, and Adjourn.

Floor

- As to a Member or a person participating in the meeting, a recognition that the Member or person was granted the exclusive right to address the Body.
- As to a motion, a recognition that a motion was properly stated and received a second in accordance with these rules of order and is properly before the Body for consideration.

Member

A person elected or appointed to hold office or a position with the Body and who is authorized to participate and to vote on a motion pending before the Body. The term Member also includes (i) the Presiding Officer and (ii) a person serving as an alternate or other ancillary or subordinate position on the Body when the person is authorized to both actively participate in the consideration of a matter before the Body and to vote on a motion.

Motion

A formal proposal seeking a specific action by the Body that is typically preceded by the words "I move that ..." or "I make a motion that …." Motions are generally introduced by voice but may be presented to the Body in writing.

Moving Member

The Member offering a motion or a point to the Body for consideration and action.

Objection

A verbal declaration by a Member in the form of "objection," "I object," or other similar words offered for the purpose of declaring to the Body that the offer of a So Moved Motion, a Friendly Withdrawal, or a Friendly Amendment is not acceptable to the Member.

Out of Order

An action or a failure to act in accordance with the rules of order.

Open

To formally announce or introduce an agenda item to the Body, which would allow the Body to initiate consideration of the agenda item.

Point

A verbal declaration by a Member addressed to the Presiding Officer requesting to bring before the Body a matter for immediate decision or resolution. There are three recognized points: (1) Point of Order, (2) Point of Information, and (3) Point of Appeal.

Presiding Officer

The person elected, appointed, or selected to preside over the meeting of the Body. The Presiding Officer will customarily be the mayor or chairperson of the Body but may include an officer designated in advance by the Body to preside over the meeting upon the absence of the mayor or chairperson, such as the mayor pro tem or vice chairperson. The Body's bylaws may also assign the role of Presiding Officer in the absence of the mayor/mayor pro tem or the chairperson/vice chairperson.

Quorum

The minimal number of Members required to be present and eligible to act in order to conduct business on behalf of the Body.

Second

A verbal declaration by a Member in the form of "second," "I second," or other similar words. A proper second clearly expresses the Member's support that a motion offered to the Body by a Moving Member should receive debate.

Withdraw

To remove a motion from the Floor, effectively and permanently terminating all consideration of the motion by the Body.

Special Terminology

Legislative, Quasi-Judicial, and Administrative Powers

The governing bodies of Colorado local governments may exercise three different powers when making decisions in the conduct of government business: legislative power, quasi-judicial power, and administrative power. Many of the government's boards and commissions may also exercise one or more of these powers. For example, the planning and zoning commission or the board of adjustment will often exercise quasi-judicial power when considering the approval of landowners' applications yet also provide recommendations to the governing body on matters that are legislative or administrative in nature.

It is necessary to understand the basic differences between these three different powers. Meeting procedures may vary depending on which power is exercised. Moreover, *Bob's Rules of Order* references these different powers in the application of the procedural rules.

Legislative Power or Decision

Legislative power or legislative decisions customarily involve the consideration and adoption of laws or policies that will affect the interests of the general public and may affect specific persons only in the abstract.[29] Legislative actions involve the exercise of significant discretion by the decision-making Body. Because legislative power involves the making of laws or policies, this power is commonly reserved to the elected governing body (e.g., the city council, board of trustees, or board of county commissioners). Some advisory boards and commissions may aid the governing body by offering recommendations on legislative matters, and, in this context, the actions by the advisory board or commission are also legislative in nature, although these bodies do not reach final decisions or enact legislation.

Quasi-Judicial Power or Decision

Quasi-judicial[30] power or quasi-judicial decisions involve the application of the law to facts that are established during a hearing and the rendering of a decision that affects the interests of specific individuals.[31] Quasi-judicial actions most often include the submission of an application to the government, a requirement that the government issue public notice for a hearing at which interested parties are entitled to be heard, and a requirement that the government timely render a final decision on the application concerning the applicant's legal rights. Many types of zoning and land-use matters and some licensing decisions (e.g., issuance of a new liquor license) involve the exercise of quasi-judicial power.

Administrative (or Executive) Power or Decision

Administrative power or administrative decisions involve the implementation or execution of the laws and policies enacted by the legislative Body of the local government. Administrative power does not establish new legislative law or policy, and the power relates to matters that are typically temporary in operation or effect.[32] The power is commonly exercised by the chief executive or administrative officer (e.g., manager or administrator and the administrative staff). However, the governing body and other bodies of the government will from time to time engage in administrative action, such as deciding future agenda items for a meeting or directing staff to pursue a certain course of action in the management of the government's affairs.

"Discussion" and "Debate"

Virtually all organized bodies use an agenda to manage the business of a public meeting. Local governments are no different. The local government's agenda is typically comprised of a list of individual agenda items. The process for scheduling items for an agenda may be formally described in the Body's bylaws or may be a product of long-standing and informal administrative practice.

Each agenda item presents a topic, issue, hearing, or other business matter to be considered and, if needed, decided by the Body. The typical individual agenda item proceeds through a series of steps: (1) the item is officially opened for the Body's consideration; (2) information is presented to the Body; (3) the item is considered by the Body; and (4) the Body takes an action to decide, continue, or otherwise conclude the agenda item. The Body repeats this general process for each agenda item until the business on the agenda is addressed and the meeting is adjourned.

Understanding the local government's typical steps for the processing of an agenda item helps clarify the use of the terms "discussion" and "debate" in *Bob's Rules of Order* and the relationship of these two different actions to a motion.

In short, the term "discussion" is used for the Body's action prior to a motion; the term "debate" is used for the Body's action after the motion.

"Discussion" means "the act of exchanging views on something"[33] or "the instance of discussing; consideration or examination ... especially to explore solutions."[34] In local government, the discussion step before a motion typically focuses the Body's attention on a problem, an issue, or a topic. Members offer perspectives and viewpoints on the matter, suggest that the Body explore potential solutions, and ask questions to collect the information needed to decide a possible course of action. The broader nature of the word "discuss" suits the practice commonly undertaken by local government bodies prior to the presentation of a motion.

In contrast, "debate" means "a formal contest in which the affirmative and negative sides of a proposition are advocated by opposing speakers."[35] A common dictionary recognizes that "debate" in the context of government means a "formal discussion of a motion before a deliberative body according to the rules of parliamentary procedure."[36] Debate is a term well suited to describe the process that local government undertakes after a motion is proposed that expresses a proposition for the Body's consideration and possible action. As a very general graphic illustration of the proper use of "discussion" and "debate" in the context of *Bob's Rules*, the following illustration may prove helpful:

STEP	ACTION INVOLVED
Agenda Item "Opened"	An initial announcement to the Body by a staff member, clerk, or the Presiding Officer of the agenda item.
Presentation	Information relevant to the agenda item is presented. In a quasi-judicial hearing, this step involves a formal presentation to the Body of testimony and evidence from staff, the applicant, and interested citizens.

Discussion	The Body asks questions and discusses the information provided during the presentation. Discussion may frame the issues to be resolved or decided. For a quasi-judicial matter, the Body may be advised to limit discussion to the clarification of the evidence and testimony and to withhold Members' opinions on whether the quasi-judicial matter should be approved or rejected.
Motion	Armed with the information from the presentation and the discussion steps, a motion is offered to the Body by a Member.
Debate	The Body engages in debate regarding the proposition presented by the motion. Members deliberate and express support or opposition to the motion. Debate may result in amendment, continuation or postponement, withdrawal, or a vote on the motion.
Vote	A vote is taken on the motion. If the motion fails, the Body may return to discussion and a potential new motion or may move to the next agenda item.

"Continue" and "Postpone"

The terms "continue" and "postpone" are used in local government meetings interchangeably even though they do not necessarily share the same meaning.[37] Because the interchangeable use of the terms is now ingrained in common meeting practice, *Bob's Rules of Order* recognizes this common practice in the context of a motion to delay the consideration of an agenda item to a future date, to an uncertain date, or indefinitely. See Section 16.0, Motion to Continue or Postpone.

"Abstain" and "Recuse"

Bob's Rules of Order recognizes a difference between a Member abstaining from a vote and a Member's recusal from a vote.

"Abstaining" means to "not vote for or against something."[38] In contrast, "recusal" means "to remove oneself as a judge or policymaker in a particular matter, [especially] because of a conflict of interest."[39]

In keeping with the common and clear meaning of these terms and in the application of *Bob's Rules*, a Member will "abstain" when the Member does not cast a "yes" or "no" vote on a matter and there is no legal impediment preventing the Member from voting.[40] Where a Member is legally precluded from voting on a matter—when the Member has a conflict of interest, for example—the Member will "recuse" themselves from participation and the vote.

CHAPTER 3

THE RULES

Bob's Rules of Order establishes rules governing the various aspects of a public meeting. The rules are set forth in the following order:

1.0 The Meeting Generally
2.0 The Quorum
3.0 The Presiding Officer
4.0 The Floor
5.0 The Motion
6.0 The Friendly Requests
7.0 The Vote
8.0 Rule Suspension and Rule Deviation

1.0 The Meeting Generally

Rule 1.1

Any state or local law that concerns the conduct of a meeting is a part of the *Rules of Order* to the extent the law is applicable to the Body.

Commentary

A decision of the Body is not final and defensible solely because the meeting and the decision-making process complied with the *Rules of Order*. Meetings are also governed by requirements imposed by the Body's bylaws and other local governing policies, as well as state law, such as the Colorado Open Meetings Law.

Compliance with all applicable state and local meeting laws and policies, together with *Bob's Rules of Order*, is made a requirement of a meeting by Rule 1.1. The rule effectively authorizes the Members to use a Point of Order to bring the Body into compliance with all applicable meeting laws in addition to the *Rules of Order*.

Rule 1.2

The meeting agenda will be followed unless properly amended or modified.

Commentary

An efficient meeting is, in part, the result of organization. Organization is best achieved by following a meeting agenda. To promote organization and efficiency, Rule 1.2 requires that the meeting agenda be followed and that the agenda items be addressed in the order presented.

Rule 1.2 must necessarily recognize that an agenda may require amendment or modification. A Motion to Continue or Postpone is one circumstance through which the agenda may be modified and items on the agenda moved to a future date and time or postponed indefinitely. Moreover, a Principal Motion[41] can be proposed to formally amend the agenda to reorder agenda items as the Body deems appropriate. The Presiding Officer also holds the discretion pursuant to Rule 3.4 to change the agenda. The Presiding Officer's decision to change an agenda is subject to a Point of Order or a Point of Appeal. See Section 11.0 (Point of Order) and Section 13.0 (Point of Appeal).

Importantly, the Body should use caution when adding items to the agenda. Obviously, matters that require advance notice to the public cannot be added to an agenda.[42] The local government's charter or ordinances may also impose advance public notice requirements for certain matters, which may preclude a last-minute addition to an agenda. Moreover, the Colorado Open Meetings Law expresses the public policy that the public notice of the local government meeting includes "specific agenda information where possible."[43] However, executive sessions need not be noted in advance on an agenda and may be added at any time, even during a meeting, provided that the motion for executive session receives the required supermajority vote. See Section 22.0.

Rule 1.3

The Body may presume that any legally required public notice for the meeting and for each agenda item was properly completed.

Commentary

Full and timely notice to the public is required for any meeting[44] "at which the adoption of any proposed policy, position, resolution, rule, regulation, or formal action occurs or at which a majority or quorum of the body is in attendance or is expected to be in attendance."[45]

Rule 1.3 does not specify the form of the notice for a meeting (i.e., the content or the manner of publication of the notice). The form of notice for the meeting must comport with state and local law.[46]

Very importantly, individual agenda items considered during a properly noticed meeting may also require a separate notice or multiple notices[47] that may vary from the general notice for the meeting.[48] The Body is strongly encouraged to consult with the Body's local legal counsel or an experienced local government administrative clerk concerning the required form of public notice.

In the interest of meeting efficiency, Rule 1.3 authorizes the Body to presume that the legally required notice was properly completed for the meeting generally and, when required, was properly completed for each agenda item. This presumption is reasonable because the issuance of public notices for a meeting is a practice both known to and routinely undertaken by the administrative staff in setting the meeting and in supporting the Body's decision-making process.

This Rule 1.3 presumption permits the Body to forego the need to take the time to determine or to announce during the meeting that notice was properly completed before convening the meeting or opening an agenda item. However, this rule does not prevent the Body from following a practice of confirming that notice was issued for the meeting generally or issued for any specific agenda item. In addition, the rule does not preclude a Member from questioning whether proper notice was provided for the meeting.

The presumption that notice was properly completed is rebuttable, meaning that issuance of proper notice shall be a presumed fact of the meeting and the agenda item until such time that credible evidence is provided to disprove the fact.

Rule 1.4

A Member shall disclose a conflict of interest and recuse themselves from both participation and voting when required by applicable state or local law.

Commentary

It is not uncommon that a Member will encounter a conflict of interest that is recognized by state or local law prior to or during a meeting.

State law provides for a number of different circumstances in which a Member may be conflicted and could be required to not participate and to not vote on a matter before the Body.[49] Charters, ordinances, local bylaws, and local codes of ethics may also establish circumstances that give rise to a conflict of interest. *Bob's Rules* does not specify when a conflict of interest may exist. The existence of a conflict, and the proper means to address a conflict, involves analysis of statutory provisions, judicial interpretations, and local laws. The Body's attorney should be consulted concerning potential conflicts of interest, and this consultation is often imperative to protect the integrity of the Body's decision-making process.

Rule 1.4 requires a Member's recusal[50] regardless of when the conflict is found to exist. A conflict of interest known to the Member prior to the opening of the agenda item should result in the conflicted Member recusing themselves prior to the Body opening the item for consideration. A conflict realized during an agenda item may require recusal immediately upon the discovery of the conflict.

A conflict will often require the Member to disclose to the Body the general nature giving rise to the conflict of interest. Upon this disclosure, the Member should request that the Presiding Officer recuse the Member from the agenda item, and the Presiding Officer should grant the request when the recusal is justified. A conflict of interest held by the Presiding Officer should likewise be disclosed, and the recusal should immediately be followed by the Presiding Officer's relinquishment of the chair to the person assigned the role of leadership in the absence of the Presiding Officer. Upon recusal, the conflicted Member or conflicted Presiding Officer should depart the dais. The Body's legal counsel may also suggest that the Member or Presiding Officer also temporarily depart the meeting room during the consideration of the agenda item—or the Body's bylaws may require such departure—to avoid concerns that the conflicted person may influence the process through facial expression or body language. Again, the Body's legal counsel should directly aid the Body and the conflicted Member in properly addressing a conflict of interest.

Rule 1.5

A motion is not required for the Body to initiate discussion.

Commentary

Some meeting rules of order[51] and a few local governmental bodies follow a rule that both a motion and a second are prerequisites to the undertaking of any substantive discussion on any matter. However, such a rule is inconsistent with the needs and practices of the common local government meeting.

It is exceedingly common that an agenda item is introduced and the Floor opened for discussion without a motion. Substantive discussion will also follow informational reports and updates that do not require a motion or a decision from the Body. And, in many instances, the specific question to be answered or decision to be made is not known to the Body upon the introduction of the agenda item.

Allowing discussion before a motion and debate allows the Body to receive information and discuss possible options for action. This discussion is often helpful in the framing of a motion. Requiring a motion to be on the Floor before the Body may engage in any conversation may focus or limit the Body's attention on the motion's singular or specific proposition or request for action. Moreover, any motion that precedes substantive discussion may need to be withdrawn or amended to address the issues raised in the Body's debate on the motion.

For quasi-judicial matters, it may appear inconsistent with the requirements of due process and fairness to present a motion to approve or deny an application prior to the receipt of any information, evidence, or testimony.[52] An early motion may create an appearance to the public that the Moving Member has prejudged the application based on information received prior to the meeting or only upon the information assembled in the Body's meeting packet.

Nevertheless, Rule 1.5 allows, but does not mandate, discussion before the presentation of a motion. Requiring a motion before discussion is a practice that is ingrained in the meeting procedures for some local government bodies and may stem from a longstanding adherence to *Robert's Rules of Order*. Such practice may continue under Rule 1.5. A motion may be offered at the proper time, which may be before, during, or following the discussion on an agenda item.

Special Note: Discussion of Quasi-Judicial Matters

Members sitting as judges for a quasi-judicial matter must remain fair, impartial, and unbiased and judge the matter based only on the record developed before the Body.[53]

During the discussion period and prior to a motion, the Body will receive evidence from the applicant seeking approval of an application, from the administrative staff, and from persons who support or oppose the application. To best ensure fairness and impartiality, Members should refrain from offering opinions regarding their support or disapproval of the application prior to the presentation of all the evidence. Such opinions prior to the receipt of all the evidence may reveal a bias or a prejudgment of the quasi-judicial matter. Additionally, Members should remain acutely aware that the form or the manner of questions asked during discussion may reveal a bias or a pre-decision. All comments and questions during discussion should remain free of judgement or opinion on the matter.

Following the full presentation of the information and evidence, and following a motion, the Body may engage in debate and deliberation on the motion's proposal. The Members may then offer their opinions on whether the testimony and evidence support or fail to support the standards and criteria governing the decision on the quasi-judicial application.

Rule 1.6

The record for each decision of the Body includes all information presented to the Body that pertains to the decision, all discussion and debate of the Body in reaching the decision, and all laws and local policies applicable to the decision.

Commentary

Every decision will be based on information presented to the Body. The information supplied to the Body may be in the form of a staff report and supporting documents, letters, emails, plans, drawings, photographs, presentations by applicants and staff, opinions from experts and consultants, testimony and comments from citizens, and answers to questions posed by the Body. For legislative or administrative matters only, the Members may also offer their own experiences or knowledge that is relevant to the decision.

Lastly, the relevant or applicable laws and local policies that will guide the decision are part of the information available to the Body.

Rule 1.6 confirms that all information presented during the meeting will create the record for the Body's ultimate decision. Rule 1.6 allows the Body to forgo the need to acknowledge each item that would be part of the record in a matter and to forgo the need to "read into the record" the titles of documents or reports available to the Body.

Special Note: Member Testimony on Quasi-Judicial Matters

Because Members sit as judges for a quasi-judicial matter, they are not witnesses, meaning it is not the role of the Members to testify as to facts underlying the matter to be decided. As judges, Members are to evaluate the factual information presented by others during a quasi-judicial hearing, and they do not serve as the *source* of the information to be evaluated.[54] Caution should always be exercised by a Member in a quasi-judicial setting to refrain from serving as a witness.

Rule 1.7

The Body's decision on a matter is presumed to be supported by the record and by reasonable inferences drawn from the record.

Commentary

Every Member is encouraged to offer their individual evaluation of the information contained in the record and to identify how the record supports the Member's vote. This practice may be critically important for quasi-judicial matters where the Body must determine whether the record supports the relevant criteria for approval of the quasi-judicial application.

But, even when the Members explain how the record supports their vote, it is unlikely that the Members will identify *all* of the information in the record that may support their vote. It is also unfortunately common that some Members remain silent prior to casting a vote because they believe that the basis for their vote is apparent from the record. To address these concerns, Rule 1.7 enables the Body to support its decision based upon the entirety of the record, notwithstanding incomplete explanations by the Members or even the silence of some Members.

Rule 1.7 promotes meeting efficiency. It would significantly delay a meeting, or require the continuation of a meeting, to allow the time for the Body to comprehensively review the details of the record and to exhaust all the possible reasons supporting a decision. Rule 1.7 allows the Body to rely upon the entire record, and upon the reasonable inferences that can be found in the record, when justifying the Body's decision.

Importantly, Members should not use Rule 1.7 as an excuse or a justification to forgo the offer of opinions, explanations, and reasoning during debate that will support their vote. Notwithstanding Rule 1.7, the Member's opinions and explanations will always form the primary and best evidence when defending the Body's decisions.

Special Note: Quasi-Judicial Findings

In a quasi-judicial matter, the Body's decision must be supported by information found in the record; otherwise, the decision may be subject to challenge as arbitrary or capricious.[55] The value of the record is highlighted by the fact that a court will limit its review to only the record created during the Body's consideration of the quasi-judicial matter. The record is critically important.

The record will oftentimes include a staff report, a staff recommendation for approval or denial, and documents and testimony by the applicant and others supporting a certain outcome. Where the record clearly supports the Body's ultimate decision, any challenge of the Body's decision may prove unsuccessful.

However, when a Member disagrees with the information and recommendations contained in the record that support a specific outcome, it is important that the disagreeing Member explain during debate why the information in the record supports a contrary conclusion. Without such an explanation, there may be an insufficient basis to justify a contrary vote and a contrary decision by the Body. Although Rule 1.7 may enable the Body to rely upon the entire record and reasonable inferences drawn from the record to support a decision, where the record may not clearly support a Member's contrary position or vote, the disagreeing Member must "speak up" during debate and deliberation on the motion.

Rule 1.8

A meeting formally ends only upon the Presiding Officer's declaration of adjournment without objection or upon the approval of a Motion to Adjourn.

Commentary

Every meeting must end. Rule 1.8 recognizes that the point in time for the end of the meeting requires an official and affirmative announcement or action. Otherwise, Members may casually leave the dais or exit the meeting room, which would put into doubt whether the meeting ended or whether the meeting may reconvene later.

A meeting of the Body will end only upon the Presiding Officer's formal declaration of adjournment pursuant to Rule 3.4 without objection from a Member. Alternatively, the meeting will end upon approval of a Motion to Adjourn pursuant to Section 21.0.

2.0 The Quorum

Rule 2.1

A quorum of the Body is required for the Body to conduct business unless otherwise expressly provided by the Body's bylaws or the *Rules of Order*.

Commentary

An important tenet for any Body is that business is conducted, and decisions are made, only in the presence of a sufficient number of members to represent the Body. The minimum number of members needed to represent the Body and conduct business is called the "quorum." The required quorum should be determined for each type of meeting by the Body's bylaws or other policy.[56]

In accordance with Rule 2.1, business cannot be conducted, and decisions made, in the absence of the required quorum for the meeting. An important and necessary exception to Rule 2.1 is recognized by Rule 2.5, which authorizes limited action and decisions in the absence of a quorum.

Rule 2.1 accommodates the situation where a quorum fails to attend a properly scheduled and noticed meeting yet the Members in attendance desire to informally discuss general—but not quasi-judicial[57]—matters. In this situation, the Colorado Open Meetings Law authorizes informal discussion of public business with less than a quorum in attendance provided that the meeting is open to the public.[58] The lack of a quorum, however, prohibits those Members attending the meeting from making any decisions or conducting any business in accordance with Rule 2.1.

Rule 2.2

Unless otherwise provided by the Body's bylaws or other applicable law, a majority of the total membership of the Body who are present and eligible to vote shall constitute a quorum.

Commentary

The Body's bylaws or other governing policy will commonly establish a quorum requirement for the Body's meetings. Rule 2.2 defers to the quorum standards set by the Body.

However, Rule 2.2 sets a default standard for the determination of a quorum where no other law, policy, or rule requires a different standard. If the Body has not set a quorum standard for the meeting, Rule 2.2 will prevent a minority of the members of the Body from conducting business.

For the purpose of Rule 2.2, the phrase "total membership" means the total number of authorized voting positions for the Body.[59] The Body's total membership is a fixed number that will not vary due to Member vacancies or absences.

When determining whether a Member is to be included in the determination of a quorum, the phrase "present and eligible to vote" recognizes that the quorum determination must exclude Members who are absent from the meeting or who are ineligible to vote due to a conflict of interest.

The determination that a quorum exists is an ongoing process which may change during the course of a meeting. For example, at the initial commencement of a meeting and prior to conducting any business, the quorum required will be determined from those Members who are present[60] and who are eligible voting members of the Body.[61]

Following the commencement of the meeting with the required quorum, the quorum may change due to a Member's absence from the meeting or a Member's ineligibility to participate due to a conflict of interest. Where a change in the number of Members present and eligible to vote reduces the quorum below the minimum quorum requirement, the Body will be unable to conduct business and make decisions. In such cases, postponement of the meeting's agenda items will be necessary in accordance with Rule 2.5. Additionally, the quorum determination may involve Rules 2.3 and 2.4, which address the effect on the quorum for excused and unexcused absences arising during the consideration of a motion.

Rule 2.3

A request to be excused from the meeting while a motion is on the Floor, if granted, shall be effective:

- **Upon the granting of the request if the excuse is due to a lawfully recognized conflict of interest; or**
- **Upon the granting of the request if the excused Member's absence will not deny the Body of a quorum; or**
- **Upon the final vote or other final resolution of the pending motion if the excused Member's absence will deny the Body of a quorum.**

Commentary

A Member's request to be excused during a meeting is not uncommon. A request may be due to a conflict of interest, illness, or an unforeseen emergency. When the excuse is justified in accordance with the Body's bylaws, the request should customarily be accommodated. [62]

An excused absence during a meeting may impact the established quorum.[63] A justified request to be excused made between the consideration of agenda items or when no motion is on the Floor enables the Presiding Officer to grant the request and permit the excuse to be immediately effective. The Body can then address any potential impact on the existing quorum and the Body's ability to conduct business. See Rule 2.5.

However, a request to be excused from the meeting while a motion is on the Floor and under debate may potentially be attributed to a Member seeking to deny the Body the quorum necessary to render a decision. Rule 2.3 seeks to balance a Member's justifiable need to be excused from attendance with the Body's need to maintain the quorum to resolve a pending motion. To best strike this balance, an excuse granted during a meeting while a motion is on the Floor will be effective as provided by Rule 2.3.

Rule 2.3 does not preclude a quorum of the Body from entertaining a Motion to Continue or Postpone the motion on the Floor in accordance with Section 16.0. Moreover, if the request to be excused is not granted by the Presiding Officer and the requesting Member leaves the meeting, Rule 2.4 will be applicable.

Rule 2.4

A Member's *unexcused* absence while a motion is on the Floor shall not affect the quorum until the final vote or other final resolution of the motion.

Commentary

On occasion, a Member may leave the meeting after the required quorum was established. When the departure from the meeting is *unexcused*, the absence is problematic. Absences can effectively make it more challenging to obtain a decisive vote on a pending motion.[64] Perhaps of equal importance, a Member's absence will deny citizens of their voice in a pending public matter that they expect to be expressed by their elected or appointed representative.

The more significant problem with a Member's unexcused absence arises from an absence during the consideration of a motion on the Floor. An unexcused absence by a Member during debate on a motion will oftentimes be attributed to the Member attempting to intentionally undermine the quorum and the Body's ability to act on a pending motion. In fact, some local governments have unfortunately encountered this problem. A rule designed to address an unexcused and unjustified absence and its resulting impact upon a pending motion is necessary to ensure that the Body can maintain the quorum and address the immediate needs of the public pending before the Body.

Rule 2.4 requires the Body to consider a Member who departs a meeting without excuse while a motion is on the Floor as remaining present for purposes of resolving the pending motion. This approach is reasonable given that the absence is entirely voluntary by the Member. An unexcused absence is equivalent to the Member staying seated on the dais and refusing to participate in the debate or to vote on the pending motion. The Member's effective refusal to vote "yes" or "no" is addressed by Rule 7.5.

Rule 2.5

In the absence of a quorum, the Presiding Officer, the Members present, or an administrative staff member shall:

- **Postpone all unresolved agenda items to the next regular meeting; and**
- **Adjourn the meeting.**

Commentary

The Body may confront the absence of a quorum either at the outset of the meeting or later in a meeting that was commenced with a required quorum. When the absence of a quorum cannot be resolved by a delay to await the attendance of the Members who comprise a quorum, it will be necessary to address any unresolved agenda items.

As provided by Rule 2.1, less than a quorum of the body cannot conduct business or make a decision. Rule 2.5 supports an exception to this rule by expressly authorizing limited action to address the Body's inability to conduct business due to the lack of a quorum.

The most crucial step in the absence of a quorum is to address *quasi-judicial* matters on the agenda. For quasi-judicial matters, the applicant, interested parties, and the public received formal notice of the date, time, and place of the quasi-judicial hearing. It is necessary to postpone quasi-judicial matters formally and publicly prior to the adjournment of the meeting as a matter of fairness to everyone seeking to attend or participate in the hearing.[65]

Additionally, the lack of a quorum can create confusion concerning the status of any items listed on the agenda. Obviously, the absence of a quorum cannot form a decision, a vote, or a directive of the Body to remove the unresolved agenda items from any future consideration by the Body. A rule that addresses the status of unresolved agenda items in the case of the lack of a quorum is necessary to avoid confusion and uncertainty.

Rule 2.5 requires certain members present at the meeting to manage the agenda in the absence of a quorum. By way of hierarchy, the Presiding Officer is required by Rule 2.5 to take action; in the absence of a Presiding Officer, one or more of the Members are required to take action; and, in the absence of any Members, an administrative staff member (oftentimes the Body's clerk) shall take action. The action is simple. An announcement of the postponement of all unresolved agenda items to the next regular meeting is in order. The announcement should include information that will clearly apprise the public and other interested parties of the date, time, and place of the postponed meeting.

For example, to address the lack of a quorum necessary to begin a meeting, the necessary announcement might say:

"Due to the lack of a quorum for our June 1, 2026, scheduled meeting, all matters on the agenda are postponed until the next meeting of the Body, which will be held on April 6, 2026, beginning at 6:00 p.m. here in the City Council Chambers, 123 Main Street."

To address an absence of a quorum arising during a meeting that was initially started with the necessary quorum, the announcement might say:

"Due to the current lack of a quorum, the remaining items on the agenda, which are items 6(b) through 9(c), are postponed until the next meeting of the Body, which will be held on April 6, 2026, beginning at 5:30 p.m. here in the Town Meeting Hall, 601 First Avenue."

Importantly, Rule 2.5 does not preclude the Body from calling a special meeting in accordance with the Body's bylaws and requirements for notice in order to address matters postponed due to the lack of a quorum.

3.0 The Presiding Officer

Rule 3.1

The Presiding Officer shall be the exclusive director and facilitator of all meeting conduct.

Commentary

The Body's efficiency and effectiveness is dependent upon the formal recognition of one Member to administer the meeting agenda, manage discussion and debate, oversee Members' fair access to the Floor, and render decisions on meeting procedure. For all local government bodies, there is customarily one person elected, appointed, or otherwise designated to serve as the Presiding Officer for a meeting. Rule 3.1 formally confers authority for meeting direction and facilitation to the designated Presiding Officer.

Rule 3.2

The Presiding Officer serves as the parliamentarian unless the role is assigned to another person.

Commentary

The need to decide a question concerning the proper application of the *Rules* will invariably arise during a meeting. Most commonly, the question will be whether a particular motion is or is not out of order. The term "parliamentarian" describes the person with a sound understanding of the *Rules* and who decides questions about the proper application of a rule.

For many local government bodies, the Presiding Officer acts as the parliamentarian without any formal assignment of the role. When the role is expressly assigned, however, it is often assigned to the Presiding Officer. This assignment can help advance meeting efficiency given that the Presiding Officer leads the meeting, may exercise discretion concerning meeting procedure, and has direct access to the Floor during the meeting without a need for a formal request.

Some local governmental bodies assign the role of parliamentarian to the Body's secretary, an administrative clerk or staff person, or the Body's legal counsel. Such an assignment may prove efficient where the person assigned the role has a sound knowledge and experience in the application of the *Rules*, can quickly make decisions without delaying the flow of the meeting, can be diplomatic and professional when offering advice and direction during a meeting, and has the Members' confidence to serve as a fair and impartial parliamentarian.

Members may use a Point of Appeal to challenge the parliamentarian's decision. See Section 13.0. Moreover, the Presiding Officer or the assigned parliamentarian is always encouraged to consult with the Body's legal counsel or administrative staff to help make decisions regarding the proper application of the *Rules of Order*.

Rule 3.3

The Presiding Officer is entitled to the same rights as a Member unless otherwise limited by law.

Commentary

The Presiding Officer's role as the facilitator or director of the meeting should not limit the Presiding Officer's role or responsibly as a Member of the Body. The Presiding Officer may hold an opinion, join in discussion, offer a motion, second a motion, engage in debate,[66] and, when legally authorized, vote. The Presiding Officer is a full Member of the Body.

Very importantly, the *Rules of Order* recognizes that, in some instances, state or local law limits or restricts the Presiding Officer's powers. For example, the mayor in a statutory town is the Presiding Officer of meetings,[67] and, by local ordinance, the governing body may deny the mayor the right to vote except in the event of a tie vote among the other Members.[68] The Presiding Officer should consult with the

Body's legal counsel to understand any limitations or restrictions on the Presiding Officer's powers as a Member of the Body. Compliance with state or local law regarding meetings can be enforced through a Point of Order. See Rule 1.1 and Section 11.0.

Rule 3.4

The Presiding Officer may exercise discretion during the meeting subject to a Point of Order or a Point of Appeal.

Commentary

The Presiding Officer must conduct meetings and follow the *Rules of Order*. However, the *Rules of Order* expressly recognizes that meeting efficiency may, at times, be advanced by a temporary deviation from a rule. A deviation from strict compliance with a rule is common, and Members rarely raise an objection to a deviation when the deviation will advance meeting efficiency. Given that deviations from a Body's adopted rules of order are common and accepted, Rule 3.4 is necessary.

In the application of the *Rules* during a meeting, some examples of opportunities for the exercise of discretion include:

- Adjourning the meeting or calling for a recess without a formal motion and vote.
- Calling for the vote on a motion, which will effectively close the potential for continuing debate on a motion.
- Declaring a Friendly Amendment or Friendly Withdrawal of a motion without a request from a Member.
- Calling a Member to order without a Point of Order.

- Asking for information without a Point of Information.
- Taking agenda items out of order when, for example, the necessary persons are not yet in attendance.
- Electing not to call the Body to order when an immaterial deviation from a rule occurs.
- Suspending a rule as authorized by Rule 8.1.

One common and appropriate exercise of discretion is forgoing a formal motion as required by Rule 5.1 when the action proposed is administrative, ministerial, and minor in nature. Such action may include, by way of examples, directing the administrative staff to prepare a report for the Body's later consideration, making a simple revision to the minutes prior to formal approval, or directing the postponement of the scheduled closure of the local swimming pool until a specific date. For these administrative matters, the Body may direct the action at the request of the Presiding Officer by expressing the Body's general concurrence or consent.[69] Importantly, forgoing a formal motion and vote should not be used for legislative or quasi-judicial decisions. Such decisions are not ministerial or minor in nature and often require a formal recording of the Body's vote on a specific proposition.

In some limited circumstances, the local home rule charter, ordinance, or policy may provide that the Body may only act by ordinance, resolution, or motion. These types of provisions could be interpreted as prohibiting the use of an informal consensus by the Body even for minor matters. The Body's legal counsel should be consulted in deciding the proper interpretation of any charter, ordinance, or other policy provisions that may limit the authority to forgo a motion and render decisions informally.

At all times, a discretionary decision by the Presiding Officer remains subject to a Point of Order and Point of Appeal, which allows the Members to bring the meeting into compliance with the *Rules of Order*.

Rule 3.5

The Presiding Officer shall facilitate the meeting in a fair and neutral manner and, whenever practicable, defer to the Members to initially lead discussion, offer motions, and direct debate.

Commentary

Rules 3.1, 3.2, and 8.1 empower the Presiding Officer to exclusively direct meeting conduct and exercise discretion regarding meeting procedures. Rule 3.3 also affords the Presiding Officer the same rights as Members to hold and express an opinion or position as to matters before the Body and to offer and second motions. However, when the Presiding Officer holds an opinion or a desire for a particular outcome, the Presiding Officer's power over the conduct of the meeting could be exercised in a manner that impinges or impairs the rights of the Members.

Rule 3.5 directs the Presiding Offer to conduct the meeting in a fair and neutral manner. The Presiding Officer should defer to the Members to initially propose motions and to lead discussion and debate. This deference is a reasonable means of ensuring fairness and protecting the Members' rights. Following an offer to the Members for the first opportunity to provide input, the Presiding Officer is entitled to exercise the right to express opinions and to participate in discussion and debate in accordance with Rule 3.3. The Presiding Officer may also offer or second a motion when the Members sit silent after the Presiding Officer extends the first opportunity to the Members to participate.

At times, the Presiding Officer may be unable to facilitate a meeting in a fair and neutral manner due to the Presiding Officer's strong, passionate, or biased position regarding a matter pending before the Body. The discretion afforded the Presiding Officer by Rule 3.4 authorizes the Presiding Officer to "pass the gavel" and hand off the facilitation of the meeting to another Member. Once no longer seated as the Presiding Officer, full participation in the meeting without the limitation imposed on the Presiding Officer by Rules 3.1 and 3.5 is then allowed.[70]

4.0 The Floor

Rule 4.1

The Floor is required to address the Body.

Commentary

A rule requiring a Member to obtain the Floor in order to speak to the Body is universally recognized as a principal element of an efficient and orderly meeting.

The wisdom of Rule 4.1 is sound. If Members were unrestricted in their ability to speak during a meeting, then, in the worst-case scenario, Members would continuously talk over and interrupt one another, with the more assertive or aggressive Members raising their voices to be heard. In the best-case scenario, Members would self-police their access to the Floor in a courteous manner in support of the goal of fairness and equality among all Members. It goes without saying that something akin to the worst case is unfortunately too common due to the vagaries of personalities in any group of people who are passionate about issues. A rule is therefore necessary to curtail unrestricted access to the Floor for the sake of meeting efficiency.

Rule 4.1 does not preclude a Member's interruption of another Member who has the Floor to offer a Point of Order, a Point of Information, or a Point of Appeal. All points are privileged. See Rule 10.1. A Member may express a point to the Body without first requesting permission to obtain the Floor. See Rule 10.2. Nevertheless, Members should offer a point in a courteous fashion and await a break in the discussion or debate.

A corollary to this rule is that Members may not hold conversations "on the side" with each other or with administrative staff during a meeting. Such conversations may not only interfere with the discussion or debate but may also impair the other participants' ability to hear and may also interfere with the recording of the meeting.

Rule 4.2

A Member shall be granted the Floor by the Presiding Officer when properly requested in accordance with the *Rules of Order* and local meeting practice.

Commentary

One of the most important goals for a meeting is to protect each Member's right to be heard during discussion and debate.

Rules 4.1 and 4.4, together with the nature of representative government and fairness, necessarily *infer* that a Member will not be denied reasonable access to the Floor. However, Rule 4.2 is necessary because no rule *specifically* grants such right to a Member or obligates the Presiding Officer to recognize a Member's request to speak before the Body.

A request for the Floor must necessarily be made at the appropriate time and in accordance with the *Rules* and local practice. For example, nearly all local governments invoke a system or process for Members to indicate their request to speak, whether that system is by means of a simple show of hands or the use of an electronic queuing system. The use of the local government's established practice or system to request the Floor is a requirement of Rule 4.2. And, when a proper request is made, the Member will be recognized by the Presiding Officer and granted access to the Floor.

When granting the Floor, the Presiding Officer need not be overly formalistic in recognizing a Member. Any recognition that would make it clear that the Member is entitled to speak is sufficient. For example, the Presiding Officer might respond to a Member raising their hand to speak with a simple expression such as "Member A?" or "Member A, did you have a question or comment?" Some Presiding Officers may seek to use a more formal style when recognizing a Member, such as "Member A, you have the Floor." However the Floor is granted, the Presiding Officer should protect the Member's right to the Floor by ensuring an uninterrupted opportunity to speak and calling unauthorized interruptions as out of order. See Rule 4.1.

Rule 4.3

A Member's right to the Floor is limited to five minutes.

Commentary

From the perspective of efficiency and fairness, it is detrimental to the Body for a Member to dominate the available meeting time with lengthy discussion or debate. Based on common local government experience, however, most Members do not often speak for more than five minutes at any one time. But experience also proves that a Member may at times dominate discussion or debate and speak for longer than five minutes. Further, experience proves that Members speaking longer than five minutes at a time are often disorganized or repetitious in conveying the information they seek to present.

Rule 4.3 recognizes that five minutes is typically a sufficient amount of time for a Member to offer viewpoints, opinions, or advocacy during the discussion or debate on a matter or motion.

Nevertheless, a Member may request that the Presiding Officer grant the Member additional time. A Member who knows that their presentation may press the time limit afforded by Rule 4.3 should contact the Presiding Officer in advance of the meeting. Such a request should usually be granted, although setting some reasonable time limitation when granting such a request is appropriate.

A request for more time made during a meeting should customarily be granted by the Presiding Officer unless the Presiding Officer decides that other Members are waiting to be recognized to obtain the Floor or that meeting efficiency necessitates that the requested extension be denied. When the Presiding Officer denies a Member an extension of time to speak, no other Member shall be granted an extension of time for the same agenda item. Moreover, if one Member is granted additional time to speak, other Members making the same request should be treated equally. Speaking more than the allocated time is always out of order.

The Presiding Officer holds the discretion to modify Rule 4.3, with such a modification applying to all Members. A modification may be accomplished through a simple exercise of discretion pursuant to Rule 3.4 or more formally by an announcement of the suspension of the five-minute limitation in accordance with Rule 8.1. A modification may be appropriate given the importance or complexity of the agenda item, the anticipated amount of time available for the agenda, the anticipated time to accommodate citizen participation, and the amount of business that must be accomplished during the meeting. The Presiding Officer's exercise of discretion is subject to a Point of Appeal, and a majority of the Body may affirm or reject the Presiding Officer's decision. See Section 13.0.

Rule 4.4

A Member may obtain the Floor only once until all other Members are offered an opportunity to obtain the Floor.

Commentary

Members are best served by a fair and equitable opportunity to address the Body. Absent a rule to aid the Presiding Officer to monitor access to the Floor, one or more Members can dominate the discussion and debate and potentially suppress or exclude other Members' views.

A Member should only speak once in discussion or debate until all other Members requesting the Floor have an opportunity to speak. The Presiding Officer shall endeavor to equally solicit input from all Members prior to allowing Members who previously obtained the Floor the opportunity to again address the Body.

Obtaining the Floor after previously speaking when other Members are awaiting an opportunity to speak is out of order.

5.0 The Motion & Second

Rule 5.1

A motion is required for the Body to take a formal action.

Commentary

It is axiomatic that the Body may only take formal action through a vote. A vote necessarily requires that a Member offer a motion that proposes a specific request, proposition, or question. Absent a motion and a vote, there is no means available to determine that the Body decided to take a specific action.

For the purposes of Rule 5.1, a formal action is an action to approve or reject an ordinance or a resolution or to render a binding and final decision by the Body that necessarily requires the recording of a vote. The Body's legal counsel should advise the Body regarding those decisions that require a formal motion and a vote. Importantly, Rule 3.4 recognizes the limited authority of the Presiding Officer to use discretion and allow the Body to decide certain administrative and ministerial or minor matters without a formal motion or vote.[71]

Notwithstanding any authority to forgo a formal motion, a formal motion and vote will be available for any action by the Body.[72] A Point of Order or a Point of Appeal are the appropriate means to require compliance with Rule 5.1.

The So Moved Motion

A Member may forgo offering a formal motion by the Member's exclamation of "so moved." The So Moved Motion requires a preceding discussion that the Presiding Officer deems sufficient to clearly define a request, proposition, or question that will be subject to a vote. Upon the exclamation "so moved," the Presiding Officer should summarize or clarify the motion. The So Moved Motion requires a second in accordance with Rule 5.3.

The So Moved Motion will oftentimes follow discussion by the Body or by administrative staff requesting that the Body take a specific action. For example, the Body's finance director may make a presentation to the Body and conclude the presentation with a statement that "the Body is asked to approve the 2026 End of Year Financial Report." To hasten the making of the requested approval, a Member may simply say, "So moved." As another example, a Member may ask for the assistance of legal counsel in fashioning the language of a motion. Upon the legal counsel's verbal suggestion of the language for the motion, a Member may wish to adopt the suggested language as a motion by using the expression "so moved."

Although a Member's opportunity to offer a So Moved Motion should customarily require the Floor, in common practice, the motion is offered spontaneously and then quickly seconded. Provided that the motion does not interrupt another Member who was granted the Floor, and absent a Point of Order objecting to the motion without obtaining the Floor, the Presiding Officer can recognize the motion.

In the event that a Member offers an objection to the use of the So Moved Motion, or a Member offers a Point of Order to require a formal motion in accordance with Rule 5.1, the So Moved Motion shall be disallowed by the Presiding Officer, and a formal motion will be required for the Body to take action.

The Rule in Practice

The following dialogue provides an example of Rule 5.1 in practice, the So Moved Motion, and the use of a Point of Order to require a formal vote:

Background:	The City Manager has the Floor and is presenting an update on current administrative issues.
City Manager:	"I attended a meeting this week with the Student Leadership for Village High School. They gave great reasons why an after-prom party at the high school will best protect our students by offering a safe environment that is monitored better than the various private parties the students might otherwise attend. I request that the City Council support this year's after-prom party and donate $500 to Village High School from the Donation Line Item in our General Fund."
Member A:	"So moved."
Member B:	"Second."
Presiding Officer:	"We have a Principal Motion on the Floor to donate $500 to Village High School for this year's after-prom party to be drawn from our Donations Line Item in the General Fund. Unless there is any further debate on this motion, I will call for the vote."
Member D:	"Point of Order."
Presiding Officer:	"Yes, Member D, what is your Point of Order?"

Member D: "Our rules of order require a formal motion in order to take action."

Presiding Officer: "Member D, you are correct. I will disallow the use of a So Moved Motion in this instance. Approval of this requested donation will require a formal motion."

[A formal motion is offered and approved by the Body]

Building upon the previous scenario, the following dialogue provides an example of the Presiding Officer's use of discretion pursuant to Rule 3.4 and the use of a Point of Appeal to challenge the Officer's decision:

Background: Member D offers a Point of Order to oppose the use of a So Moved Motion and to require a formally stated motion in accordance with Rule 5.1.

Presiding Officer: "Member D, as the Presiding Officer, I find that the motion is sufficient because our rules of order authorize the use of a So Moved Motion if the Presiding Officer determines that the discussion prior to the motion is sufficient to provide a clear and understandable motion. I find that the So Moved Motion in this case is sufficient for this matter. We can proceed to a debate on the motion."

Member D: "Point of Appeal. I believe that use of our limited funds in our Donation Line Item of the General Fund justifies a more formal motion and strict adherence to Rule 5.1."

Presiding Officer: "My decision to accept the So Moved Motion is appealed. An appeal is not debatable. I will call for the vote on the question of whether my decision should be upheld. A "yes" vote is a vote to support my decision and allow the So Moved Motion. A "no" vote is a vote to reject my decision and to require a formal motion. A majority of the quorum is required for this appeal."

[The Body then proceeds to a vote on the Point of Appeal, and a majority of the quorum supports the Presiding Officer's decision. The So Moved Motion is then debated and decided.]

Rule 5.2

A motion shall propose an affirmative proposition in clear and understandable language that is limited to either a "yes" or a "no" vote.

Commentary

Rule 5.2 establishes three requirements for a proper motion: (1) an affirmative proposition that is (2) stated in clear and understandable language and that (3) calls for a "yes" or a "no" vote.

✦ Affirmative Proposition

Motions ask the Body to make a decision. For all motions other than a Principal Motion, the motions are each limited by the motion's required language and purpose to ask that the Body decide to take an *affirmative* or positive action—that is, upon the approval of the motion, the Body will change the existing state of affairs in the course of the meeting.

Unlike the other motions, Principal Motions are not necessarily limited to a request to take affirmative action. Although most Principal Motions will propose that the Body take an affirmative action, a Principal Motion could potentially ask the Body to not take an action. A motion proposing that the Body not take action is unnecessary, if not confusing. The Body need not approve a motion in order to maintain the status quo. As an example, a Principal Motion "to not take a recess," if approved, would not change the status quo and would merely confirm the state of affairs that would exist in the absence of the motion.

Rule 5.2 requires that all motions propose that the Body take an affirmative or positive action, the approval of which will change the status quo. Requiring all motions to seek an affirmative action is entirely consistent with local government's customary approach to governance. Most agenda items either expressly or implicitly ask that the Body consider approving the taking of action. And, notably, a "motion to approve" an action is by far the most common form of motion.

Requiring an affirmative motion promotes efficiency. An affirmative motion enables the Body to reach a decisive or final decision regardless of the vote to approve or reject the motion. See Rules 7.7 and 7.8.

✦ Clear and Understandable Language

On occasion, a Moving Member may propose a confusing motion that other Members do not clearly understand. Confusion is often the product of an overly wordy or a multipart motion.

When motions are imprecise, unclear, or not fully understood by the Body, the Body's decision can mean different things to different

Members. Members may later dispute the motion's intent or scope and the specific action directed by the Body. The administrative staff may find it difficult to carry out the directions of a confusing or unclear motion. A concise, clear, and understandable motion is the goal, if not an absolute necessity.

When a Member is uncertain about the purpose or meaning of a motion, it is appropriate to offer a Point of Information seeking an explanation from the Moving Member. The Body benefits from clarity in the motion. Inquiries into the purpose or meaning of the motion can oftentimes result in the withdrawal of the motion or a more understandable restatement of the motion.

✦ "Yes" or "No" Vote

A motion will be ineffective to direct action unless the motion asks for a simple and unconditional "yes" or "no" vote.[73] A motion that requires the Members to explain a position or an opinion will not likely lead to a definitive decision by the Body. Consider, for example, a motion that states, "I move to have the Trustees identify how much they would support funding Trustee education and training for each of the next four years." It is highly likely that the Trustees will offer a variety of different opinions in response to the motion. This motion does not allow the Members to vote "yes" or "no" and is therefore out of order.

Special Note: Lack of an Offer of a Motion to Approve

On rare occasions, the Members of the Body may be unwilling to offer a Principal Motion "to approve" a proposed action. This unwillingness may be the result of strong or unanimous opposition to the approval of the requested action. Although a Principal Motion "to deny" the proposed action remains a possibility, a motion to approve the action can be more efficient. A motion to approve that fails to receive the necessary vote will result in a definitive or decisive decision to reject the motion's proposition in accordance with Rule 7.8.

The *Rules of Order* provides an assurance that a motion to approve can serve the Body notwithstanding a Moving Member's opposition to the motion. Rule 7.4 recognizes that the offer of a motion does not require the Moving Member to advocate in favor of the motion or to vote to approve the motion. Additionally, Rule 5.6 affords a Moving Member the first right to speak to the motion. This opportunity allows the Moving Member to state at the outset of the motion's consideration that the Member is offering the motion to allow the Body to debate and that the Moving Member will likely be voting against the motion. Simply stated, the offer of a motion to approve will not imply that the motion should be, or will be, approved by the Body. The motion is, however, the most efficient approach to deciding general propositions for action presented to the Body.

Rule 5.3

A motion requires a second.

Commentary

A motion must receive a second before any debate may commence. The reason for this rule is efficiency. A second is an expression of support by a Member that the motion should be entertained by the Body. It is inefficient for the Body to devote time or effort debating a proposed motion that no Member other than the Moving Member supports for consideration and debate.

But, very importantly, the offer of a second is not an expression that the Member offering the second approves or supports the motion's proposition. The Member offering a second only desires to open debate on the motion. A Member's offer of a second does not preclude the Member from later opposing or voting against the seconded motion. See Rule 7.4.

As a limited expression of support for debate, the second does not require that the Member obtain the Floor, and, moreover, the offer of a second does not grant the Floor to the Member. The expression "second," "I second," or a similar affirmative declaration is appropriate, and any other expression or attempt to comment on the motion is out of order.

The Presiding Officer should await the offer of a second before acknowledging the motion pursuant to Rule 5.4. It is also helpful for the Presiding Officer to ask for a second on a motion, which can highlight for the Members the need for a second before proceeding. The lack of a second after allowing a reasonable time for the second will result in the motion's failure. In this case, the Presiding Officer should declare that "the motion dies for lack of a second," the declaration of which will remove the motion from any further consideration. A new motion would then be in order, or, if a new motion is not offered, the Presiding Officer may move to the next agenda item.

Special Note: Quasi-Judicial Matters – Lack of a Second

For a quasi-judicial matter, the applicant is legally entitled to a final decision from the Body. The lack of a second, and the resulting failure of the motion, does not provide a definitive or final decision. The failure of the second simply means that a particular motion will not be placed on the Floor. Upon the failure of the motion to receive a second, the Presiding Officer should request a new motion that will lead to the Body satisfying the requirement for a final decision on the quasi-judicial matter.

Rule 5.4

To be placed on the Floor for the Body's consideration, the Presiding Officer must acknowledge that the motion was properly stated and seconded in accordance with Rules 5.2 and 5.3.

Commentary

Rule 5.4 advances meeting efficiency. The Rule permits the Presiding Officer an opportunity to determine that a motion satisfies the requirements of Rule 5.2 (properly stated) and Rule 5.3 (properly seconded). The Presiding Officer should promptly make the determination and, when justified, acknowledge the motion. Upon acknowledgement, the motion will be on the Floor for the Body's consideration and debate.

The Presiding Officer's acknowledgment of a motion may be formal ("We have a motion properly stated and seconded which proposes approval of Ordinance No. 23, and the motion is now on the Floor") or informal ("Does anyone wish to speak to the motion?"). To enhance the Body's understanding of the motion, it is helpful if the Presiding Officer restates or summarizes the motion upon its acknowledgement.

Rule 5.4 allows the Presiding Officer and the Members an opportunity to address any deficiencies in the form of the motion prior to the motion being placed on the Floor. For example, when the motion's language is not clear and understandable, the motion, even if seconded, is not yet on the Floor. The Presiding Officer and the Members of the Body can bring to the Moving Party's attention the motion's lack of clarity. The Moving Member is then provided an opportunity to change or even withdraw the motion. See Rule 5.5. When the motion is changed appropriately, the motion can be seconded, and the Presiding Officer can acknowledge the motion.

If the Presiding Officer withholds acknowledgement of a properly stated and seconded motion, a Point of Order or Point of Appeal is available to challenge the Presiding Officer's lack of action.

Rule 5.5

A motion, once acknowledged by the Presiding Officer and placed on the Floor, is owned by the Body.

Commentary

A Moving Member may attempt during debate to exercise control over a motion by unilaterally modifying the motion's language or by proclaiming the motion as withdrawn from consideration. Some local governments condone this practice under an assumption that the Moving Member holds some form of right, ownership, or control over the motion until it receives a final vote. This practice is ill-advised.

Rule 5.5 recognizes a specific point in time when ownership and control over a motion will rest with the Body. A motion is not on the Floor and capable of any consideration and debate until the Presiding Officer acknowledges the motion in accordance with Rule 5.4. Until this acknowledgement, the Moving Member may change or withdraw the motion. A change or withdrawal may typically be made in response to inquiries about the motion from the Presiding Officer or the Members. But, upon the Presiding Officer's acknowledgement, the Body will own and control the motion, and the Moving Member cannot change or withdraw the motion.

To allow the Moving Member to unilaterally change or withdraw a motion on the Floor can be problematic. Once on the Floor, the Body will devote time debating the motion. Members will take positions on the motion and may demand that the Body reach a final decision to approve or reject the motion. Moreover, the Members may propose one or more amendments to the motion to best express the Members' positions. If a Moving Member retains control over a motion, the Moving Member may unilaterally control the Body's ability to render a decision by changing or withdrawing the motion. Rule 5.5 helps prevent a Moving Member from unilaterally undermining the Body's decision-making process.

Rule 5.6

The Presiding Officer shall offer the Moving Member the first opportunity to speak to a debatable motion.

Commentary

Once on the Floor, a debatable[74] motion can proceed to debate. As the principal proponent of the motion, the Moving Member is afforded the first opportunity to address the purpose and need for the motion. The explanation may help focus the Body's debate and may highlight a need for amendment to ensure that the motion aligns with the Moving Member's intent or serves the Body's goals.

Rule 5.6 neither requires the Moving Member to accept the Presiding Officer's invitation to address the motion nor precludes the Moving Member from later addressing the motion during debate as permitted by Rule 4.2.

6.0 The Friendly Requests

Rule 6.1

A Friendly Amendment is authorized only for a debatable motion, and the amendment of the motion will be effective unless a Member objects.

Commentary

The need to amend a motion is common. Some amendments may be complex—for example, an amendment of a motion to add conditions to the approval of a proposed land use. For these more complex amendments, the proper amendment procedure is a Motion to Amend. See Section 17.0, Motion to Amend.

However, some amendments may be as simple as asking for a change of a word, a number, or a date. For example, consider a Principal Motion to approve the purchase of seven new laptop computers for the governing body's use. A Member may offer a Motion to Amend the Principal Motion to change the number of laptops from seven to eight to supply the Body with a backup unit. This simple amendment is clear and understandable and would not require much, if any, debate. It is also an amendment that may be readily acceptable to all the Members of the Body. Therefore, a simplified and informal procedure to amend a motion can advance meeting efficiency.[75] The Friendly Amendment fulfills this role.

A Friendly Amendment is only available to amend a debatable[76] motion. A Friendly Amendment is out of order when offered to amend a motion that is not debatable. A Friendly Amendment enables the Presiding Officer to exercise discretion and to forgo a formal Motion to Amend, a debate, and a vote. Because Rule 5.1 requires a motion for the Body to take action, the Friendly Amendment is effectively a special exception to Rule 5.1.

The Friendly Amendment is initiated by a request that includes the specific amendment proposed. In the preceding example concerning laptop computers, the request for a Friendly Amendment may state, "I request a Friendly Amendment to change the number of laptops from seven to eight."

Any Member, including the Presiding Officer, may request a Friendly Amendment. The request requires that the Member have the Floor.

Importantly, it is the Presiding Officer, not the Moving Member who offered the original motion, who may approve a request for a Friendly Amendment. This approach is entirely appropriate given that the Body owns the motion on the Floor, not the Moving Member. See Rule 5.5. Moreover, the Presiding Officer is already empowered to assume the Floor and to exercise discretion to advance meeting efficiency.

Upon the announcement of the request, the Presiding Officer should await an objection and, hearing none, declare that the motion on the Floor is amended as stated in the request for the Friendly Amendment. It is the absence of an objection from any Member of the Body that effectively renders the amendment "friendly."

When the Friendly Amendment is not unanimously supported by the Members, a simple exclamation of "objection" by a Member will make the Friendly Amendment unavailable to the Body.[77] An objection will effectively require the Body to either abandon the requested amendment or resort to a formal Motion to Amend, debate, and a vote if the amendment is to move forward. See Section 17.0, Motion to Amend.

The Rule in Practice

The following dialogue provides an example of Rule 6.1 in practice:

Background:	The Town Manager presents Ordinance 19 to the Town Board. Ordinance 19 will amend the Town Code and require all dogs to be kept on a minimum ten-foot leash when outside of a building or outside of a fenced yard.
Member A:	[Who was granted the Floor by the Presiding Officer] "I move to approve Ordinance 19 as presented."
Member B:	"Second."
Presiding Officer:	"We have a Principal Motion on the Floor to approve Ordinance 19 as presented. This motion is debatable. Member A, you have the right to speak first on the motion. Would you like to speak to your motion?"
Member A:	"No, thank you."
Member C:	[Who was granted the Floor by the Presiding Officer] "I believe that, in the study session on this issue, we supported a maximum eight-foot leash because it was the standard used by other communities and is a safe length for control of a dog. I request that the Presiding Officer accept a Friendly Amendment to the motion to change the phrase in Ordinance 19 that currently states 'a maximum of ten feet' to instead state 'a maximum of eight feet.'"

Presiding Officer: "Thank you, Member C. I agree with your suggested amendment and accept the Friendly Amendment to change the maximum length of the leash from ten feet to eight feet.

"Is there any objection to this friendly amendment?

"Hearing no objection, the motion to approve Ordinance 19, as amended by the Friendly Amendment, now states the leash must be 'a maximum of eight feet' and is now on the Floor for debate."

[The Body then continues in debate on the Principal Motion as amended by the Friendly Amendment. Note that a formal Motion to Amend would be available if the Presiding Officer rejected the request for a Friendly Amendment or an objection to the Friendly Amendment was raised by a Member.]

Rule 6.2

A Friendly Withdrawal is authorized only for a debatable motion, and the withdrawal of the motion will be effective unless a Member objects.

Commentary

A majority of the Members may find a proposed motion on the Floor to be unacceptable. For such a motion, the common method to effectively withdraw the motion from the Floor is by a vote on the motion as presented and the motion's failure to receive the necessary number of votes for approval.

On occasion, however, the Body may recognize during debate that a debatable motion will not enable the Body to reach a meaningful conclusion and that an entirely different motion—or no motion at all—should be offered. For example, the debate on a Principal Motion proposing to fund a city council retreat may demonstrate that only the Moving Member desires to attend a retreat. In the face of this apparent strong opposition to the retreat, continuing debate on the motion is unwarranted, pointless, or inefficient. In this instance, Rule 6.2 authorizes a "Friendly Withdrawal" to promote meeting efficiency.

The Friendly Withdrawal is only available for a debatable[78] motion. The reason for this limitation is that a nondebatable motion will not present an opportunity for Members to access the Floor and express opinions on the motion. A nondebatable motion will immediately proceed to a vote without debate. When sufficient opposition to the nondebatable motion exists, the motion will be promptly and efficiently rejected by a vote.

A Friendly Withdrawal is initiated by a Member's request or by the Presiding Officer. Upon the announcement of the request to consider a Friendly Withdrawal, the Presiding Officer should await an objection from a Member and, hearing none, declare the motion on the Floor withdrawn. It is the absence of an objection from a Member of the Body that effectively renders the withdrawal "friendly."[79]

Importantly, it is the Presiding Officer and not the Moving Member who may approve a request to withdraw a motion by a Friendly Withdrawal. This approach is entirely appropriate given that a motion on the Floor is owned by the Body, not the Moving Member. See Rule 5.5. Moreover, the Presiding Officer is authorized to exercise discretion to advance meeting efficiency. See Rule 3.4.

Upon a Member's timely objection to a proposed Friendly Withdrawal, the Friendly Withdrawal is unavailable, and the pending motion must proceed to a formal decision by the Body.

The Rule in Practice

The following dialogue provides an example of Rule 6.2 in practice:

Background: Member A offered a Principal Motion to approve an application for a special-use permit for an animal hospital. The motion included several conditions regarding the operation of the hospital. The motion received a second and was acknowledged by the Presiding Officer as properly on the Floor. After some debate on the motion, the Body recognized that the motion would require significant and time-consuming amendment to bring the motion into a form that the Body could reasonably entertain. Another Member suggested "scrapping" the pending Principal Motion and starting over with a different motion for approval. A majority of the Members expressed strong support for the suggestion to "scrap" the motion.

Member A: [Who was granted the Floor] "After hearing the comments during debate that this motion needs a lot of work if we are going to reach a final decision, I request that the Presiding Officer accept a Friendly Withdrawal of the motion."

Presiding Officer: "Member A has asked for a Friendly Withdrawal of the motion. I agree that withdrawing this motion is necessary so we can take a different approach with a new motion. Unless there is an objection, I will withdraw the motion.

"Hearing no objection, the motion to approve the conditional-use application is withdrawn. Do we have any other motion or request?"

Using the same scenario for the Principal Motion to approve the special-use permit for the animal hospital, the following dialogue illustrates the use of an objection to defeat a proposal for a Friendly Withdrawal:

Member A: [Who was granted the Floor] "After hearing the comments during debate that this motion needs a lot of work to reach a final decision, I request that the Presiding Officer accept a Friendly Withdrawal of the motion."

Presiding Officer: "Member A has asked for a Friendly Withdrawal of the motion. I agree with the request. Unless there is an objection, I will withdraw the motion."

Member C: "Objection."

Presiding Officer: "Member C objects to the use of the Friendly Withdrawal in this instance. A Friendly Withdrawal is not available for this motion.

[The Body then proceeds to a formal vote on the Principal Motion, which is rejected, and the Body then entertains a new motion.]

7.0. The Vote

Rule 7.1

The Presiding Officer's call for the vote closes the Floor.

Commentary

The debate of a proposed motion may at times seem never-ending, with Members repeatedly seeking the Floor and often repeating the same comments in support or opposition to the motion. At other times, the debate is succinct, or Members know their vote without debate. Eventually, the Presiding Officer must call for the vote to enable the Body to render a decision.

Absent a rule that will close the Floor, Members may request the Floor and engage the Body in debate even during the voting process. The call for the vote is a declaration that the Floor is no longer open to prevent the interruption of the process of voting. No Member is authorized to seek the Floor or to speak to the Body following the call for the vote.

However, Rule 7.1 does not preclude a Point of Order, Point of Information, or Point of Appeal, which remain available to Members as privileged actions that can allow the Body to address urgent matters concerning meeting process.

The Presiding Officer's decision to call for the vote is a discretionary decision subject to a Point of Appeal. A successful appeal will cause the Floor to remain open until the Presiding Officer again calls for the vote or the Body approves a Motion to Close Debate. See Section 18.0.

Rule 7.2

Proxy or absentee voting is not permitted.

Commentary

Rule 7.2 effectively limits voting to only Members in attendance.[80] Rule 7.2 also directly advances the public policy established by the Colorado Open Meetings Law that the business conducted by elected and appointed officials occurs in meetings that are open to the public. Proxy and absentee voting undermine the openness and transparency of government.

Voting by proxy allows a Member to vote on behalf of another Member.[81] Proxy voting undermines or defeats equality among Members by granting the Member holding a proxy greater voting power than other Members. The proxy grants a Member two or more votes. Moreover, in circumstances where the Member granting the proxy limits or conditions the voting authority of the proxy holder, the Body has no means to ensure that the proxy vote is cast correctly—that is, unless the Body undertakes a review of any written proxy form or confirms any limits or conditions with the Member granting the proxy. Reviewing or confirming the proxy will obviously delay the meeting and reduce efficiency. Proxies that are unclear as to the proxy holder's scope of authority to vote will place the Presiding Officer or the Body in the position of judging the intent or validity of the proxy prior to the casting of the vote. If the goals of a meeting are fairness to the Members and efficiency, proxy voting is antithetical to such goals.

Absentee voting allows a Member to submit a vote on a matter in advance of the meeting. The *Rules of Order* prohibits absentee voting because the vote lacks the confidence of being a fully informed and well-reasoned decision. Most obviously, the absent Member may prepare and submit their vote for a motion, proposition, or question that is not likely known to the absent Member. An absentee Member will also not be aware of any information, testimony, evidence, discussion, and debate offered during the meeting and prior to the vote. In a quasi-judicial matter, an absentee vote can show that the absent Member pre-judged the matter or held a bias or prejudice based on information the absent Member obtained outside of the quasi-judicial hearing. Such prejudgment, bias, or prejudice can undermine the fairness owed to the applicant and the meeting participants required by procedural due process.[82]

Rule 7.3

A Member may not explain their vote after the call for the vote.

Commentary

Several rules effectively limit a Member's ability to explain their vote after the Presiding Officer's call for the vote. Rule 4.1 requires the Floor to address the Body, Rule 7.1 closes the Floor upon the call for the vote, and Rule 7.5 limits a Member to the expression of a "yes" or "no" vote on a motion. Nevertheless, Members may try to use the voting opportunity to explain the reasoning or basis for their vote. This practice is both inefficient and ill-advised.

Rule 7.3 advances the efficiency of both the process of debate and the process of voting. During debate, Members enjoy a full opportunity to explain why they support or oppose a motion. Members have a right to the Floor, may speak for five minutes, and may obtain the Floor multiple times during debate. See Rules 4.2, 4.3, and 4.4. If a Member did not exercise the full and available opportunity to explain their position and their vote during debate, it is reasonable to deny the Member an opportunity to explain a vote when a vote is cast.

Rule 7.3 enhances the quality of the decision-making process by discouraging a Member from remaining silent during debate. A silent Member deprives the Body of the Member's reasoning that supports the Member's vote. When a silent Member explains a vote after the close of debate, the other Members cannot obtain the Floor to support or rebut the previously silent Member's reasoning. If a Member has already cast a vote and then finds the silent Member's explanation persuasive, the Member may wish to change the earlier vote, which can lead to meeting dysfunction.

Many Bodies use a roll-call system to cast votes, and, for these Bodies, attempts to use the voting opportunity to explain a vote are more commonplace. For Bodies using voting machines or other mechanical methods that require each Member to cast a vote simultaneously, these voting methods can help prevent the late explanation of a vote. However, as Members cast their vote by pressing a button or flipping a switch, it is possible that the Member will use that time to announce the reasons why they are casting their vote.

Regardless of the local government's system for voting, Rule 7.3 clarifies that any attempt to explain a vote at the time of the casting of the vote is out of order.

Rule 7.4

Neither the Moving Member nor the Member offering a second on a motion must advocate or vote in favor of the motion.

Commentary

Some bodies require a Member offering a motion and the Member seconding a motion to advocate in favor of the motion. A few bodies require these Members to ultimately vote in favor of the motion. These practices may stem from a belief that the Members will both support and vote to approve the motion because these Members initially offered or supported the motion. The practice may also be based on an adopted rule of order that obligates the Moving Member and the Member offering a second to support the proposed motion.[83]

Rule 7.4 clarifies that the mere offering of a motion or the offering of a second does not limit Members to a particular position or vote. Rule 7.4 makes common sense. After offering a motion or offering a second, a Member may be persuaded during the debate that the motion will not achieve the Member's intended goal. In addition, amendments to the motion may result in a Member deciding to oppose the motion. And, at times, a Member may initially offer a motion for the purpose of allowing debate and with the intent that the Body will see the wisdom of rejecting the motion.[84]

Rule 7.4 recognizes that the offering of a motion, and the offering of the second, only means that the Moving Member and the Member offering the second intend that the Body debate the motion's proposition.

Rule 7.5

Each Member eligible to vote on a motion shall vote either "yes" or "no."

Commentary

Because Rule 5.2 requires the form of a motion to require a "yes" or a "no" vote,[85] Members are limited when voting to declare unconditional support or opposition to the motion. To be successful, a motion must receive the required number of "yes" votes to approve the motion. See Rule 7.6.

On occasion, a Member eligible to vote as part of the quorum of the Body may seek to "abstain" at the time of the vote. An abstention is an act to avoid voting or to not vote.[86] The desire to abstain may be due to a variety of reasons, which may include the Member feeling unprepared to vote due to a lack of information or the Member's desire to simply not be placed "on the record" in support or opposition of a proposition. It is important to recognize that abstaining from a vote is different than not voting due to a conflict of interest. A conflict of interest requires the conflicted Member's exclusion from the quorum, exclusion from participation in the matter, and exclusion from the vote. See Rule 1.4. In contrast, abstaining refers to the Member's decision to not cast a vote when the Member has no legal reason that would prevent the Member's participation in the matter or prevent the casting of a vote.

Rule 7.5 does not recognize a right to abstain from a vote.[87] Whether a Member is elected or appointed to serve the Body, the *Rules* assumes that the Member's acceptance of the position is a commitment to perform the duties of the position unless such performance is prevented by law.[88] The ultimate exercise of the Member's duty is the casting of a vote on a motion to allow the Body to make a decision. An abstention, regardless of its reason, is a disregard of the duty voluntarily accepted by the elected or appointed Member to represent the public.

In the event that a Member eligible to vote abstains or otherwise refuses to cast a "yes" or "no" vote in accordance with Rule 7.5, the vote is out of order. The Presiding Officer may ask the abstaining or nonvoting Member to vote in accordance with Rule 7.5 by declaring a "yes" or a "no" vote. Should the Member refuse to vote in accordance with Rule 7.5, the Body may consider recording the failure to vote in the minutes as, for example, "Member Smith refused to vote."[89] The failure to vote will not count as either a "yes" or a "no" vote.

Some local government bodies follow a rule or bylaw provision that requires the recording of an abstention or other refusal to vote as either a "yes" or a "no" vote. The Body should consult its legal counsel in any decision to impute a vote to a nonvoting Member. This issue has a long, although not recent or extensive, history of legal precedent.[90]

Special Note: Approval of the Minutes

A Member may want to abstain from a vote on a motion to approve the minutes from a prior meeting solely because the Member was absent from the meeting. The Member may feel that, due to their absence, they cannot personally attest to the accuracy of the minutes.

The rule requiring a previously absent Member to vote "yes" or "no" on the approval of the minutes is not necessarily inconsistent. A previously absent Member may vote "yes" to approve the minutes because the Member has no reason or justification to object to the content of the minutes.

Additionally, an absent Member may rely upon a common presumption that the clerk or other administrative staff person charged with the taking of the minutes accurately recorded the meeting minutes. It is exceedingly rare that an error in the minutes creates conflict. An inaccuracy in the minutes, when noted by a Member, is usually corrected prior to the motion and the Body's vote to approve. A previously absent Member may readily observe that the absence of any objection by other Members to the minutes, or the correction of the minutes to resolve any inaccuracy, will justify a "yes" vote for approval.

Rule 7.6

The approval of a motion requires a vote of a majority of a quorum unless a greater number of votes is required by the *Rules of Order* or by law.

Commentary

The common rule for a motion is that the majority of a quorum[91] in attendance is necessary to decide the motion's outcome. This is a default rule because some motions require a different and higher voting standard.[92] The common rule gives exception to three motions:

- ✦ Motion to Close Debate, which requires a two-thirds (2/3) vote of a quorum. See Section 18.0.
- ✦ Motion to Reconsider, which requires a two-thirds (2/3) vote of a quorum. See Section 19.0.
- ✦ Motion for Executive Session, which requires a two-thirds (2/3) vote of a quorum.[93] See Section 22.0.

These three motions can effectively deprive Members of important rights associated with the decision-making process or deprive the public of the right to observe the decision-making process. As a result, a higher or supermajority voting requirement is justified.

Additionally, special statutory voting requirements impose added exceptions to the common rule. The Body should consult the Body's attorney to identify the special voting requirements of state law and whether the requirements are applicable to the Body.

By way of some examples, potential statutory modifications of the common rule for a majority vote of a quorum include:

- Municipal ordinances, resolutions, and orders for the appropriation of money requires approval by a majority of the governing body and not a majority of a quorum.[94]
- For municipalities having adopted the necessary ordinance to require the mayor's signature on any ordinance adopted and all resolutions authorizing the expenditure of money or entering into a contract, a mayoral disapproval and refusal to sign the ordinance or resolution may be overridden by a two-thirds (2/3) affirmative vote of the Members of the governing body.[95]
- Adoption of an emergency ordinance requires a vote of three-fourths (3/4) of the Members of the governing body of the municipality.[96]
- Colorado state law requires a two-thirds (2/3) vote of all the Members of the governing body of a municipality to approve a change in zoning or zoning regulations in the event of a properly filed protest.[97]
- The Colorado Open Meetings Law requires a two-thirds (2/3) vote of a quorum to hold an Executive Session.[98] This same voting requirement is set forth in Section 22.0 of these *Rules*.

Lastly, home-rule charters and local ordinances may also impose special voting requirements on the Body. For example, in one home-rule municipality, a vote to authorize the exercise of the power of eminent domain to take possession of private property requires a vote of two-thirds (2/3) of all Members of the city council in office at the time of the vote.[99]

Rule 7.7

The approval of a motion by the required vote shall decisively approve the motion's proposition or question.

Commentary

Rule 7.7 works in cooperation with Rule 7.6, which sets the number of votes required for approval of a motion. Rule 7.7 provides that the Body's approval of a motion by a vote of the required majority will decisively approve the motion's proposition or question.

Rule 7.8

The failure of a motion to receive the required vote for approval shall decisively disapprove the motion's proposition.

Commentary

Rule 7.8 recognizes the obvious result of a vote that fails to gain the majority vote for approval, the failure of which also includes a tie vote. Because the motion must state an affirmative proposition as required by Rule 5.2, the failure of the vote on the motion will decisively disapprove the motion's proposition to take action. In effect, the question presented is "Shall the Body approve the motion's proposition?" and the resulting answer by the failure of the Body to gain the required majority's vote is a decisive "no."

Special Note: Motion to Deny

A special mention is warranted for a "Motion to Deny." This motion is often proposed during the consideration of a quasi-judicial matter to approve an application. For example, the motion might state, "I move to deny the application requesting a rezoning of Lot 9 to the R-1 Zone District."

In accordance with Rule 7.7, the Body's vote to approve the Motion to Deny the rezoning application will result in a decisive decision to deny the requested rezoning. That is, the Body was asked by the motion, "Shall we deny the application?" and the answer of the Body is "Yes, we will deny the application." The requested rezoning is denied or rejected and the decision is final.

But what happens when the Body *does not* gain the votes necessary to approve a Motion to Deny? The Body's failure to approve a Motion to Deny only rejects the motion's request. In the example of the rezoning of Lot 9, the failure to approve the Motion to Deny only rejects the request to deny the rezoning of Lot 9.

Critically important is that—by not gaining the votes needed to deny the motion—the Body is *not approving* the motion. The Motion to Deny only asked the Body, "Shall we deny the application?" and the Body's answer is "No, we will not deny the application." The Body was not asked to approve the application. So, the application which requested the

Body's approval of the rezoning remains before the Body for a decision. Note that, if the failure of a Motion to Deny could result in an approval, then a tie vote on the Motion to Deny would approve an application. It would be unacceptable for less than a majority of the Body to render a decisive or final decision.

To reach a definitive decision following the failure of a Motion to Deny requires that the Body be asked to approve the rezoning. Upon the presentation of a motion to approve the rezoning application, and pursuant to Rule 7.7, the vote on the Motion to Approve will result in a definitive decision on the requested rezoning whether the motion receives the required vote or not.

Rule 7.9

A Member shall not change their vote after the announcement of the final vote except in exceptional circumstances with the approval of the Presiding Officer.

Commentary

The purpose of Rule 7.9 is to ensure the finality of a vote by the Body. If one or more votes can be changed after the final vote is announced, the decision cannot be deemed final. The only means to ensure finality is through a rule prohibiting a change in vote.

The appropriate method to reconsider a vote and to enter a new vote following final announcement would be a successful Motion to Reconsider. See Section 19.0. The successful Motion to Reconsider would reopen the prior matter, rescind the prior final decision, and enable the Members to propose the same or a different motion and effectively provide an opportunity to change a vote.

Rule 7.9 requires an exception to address circumstances related to deficiencies in the voting method or a reasonable accommodation for a Member's disability. It is foreseeable that a Member may cast a vote only to learn after the vote announcement that their vote was not properly recorded. For example, a poor audio system associated with a video conference or remote meeting may at times fail to allow a Member to clearly record a vote due to multiple speakers voting simultaneously. Additionally, an error in voting may be made by a person with a visual or hearing impairment due to pressing the wrong voting button or indicating a vote at the wrong moment. The Presiding Officer is authorized to recognize the need to allow for changes in votes in such exceptional circumstances.

Special Note: Changing a Vote During the Voting Process

Related to Rule 7.9 is a Member's attempt to change a vote during the voting process but *before* the announcement of the final vote. Rule 7.9 does not prohibit a change of a vote prior to the announcement.

Nevertheless, allowing a Member to change a vote after the vote is cast is problematic. The practice conveys an appearance that the Member changed the vote not based on a reconsideration of the information, evidence, or advocacy presented during the meeting but because the Member is responding to the vote of another Member. In addition, the practice is disfavored because the Member seeking to change a vote may do so to manipulate the outcome in the event of a close vote. However, a Member may seek to change a vote prior to the final announcement of the vote simply because the Member misunderstood the motion or cast an incorrect vote due to a recognized disability. Rule 7.9 allows the Presiding Officer to accommodate a justifiable need to change a vote.

To address the issue of changing votes during the voting process and to introduce equality in the voting process, some local governments use voting equipment or tools that require Members to cast their votes simultaneously. All votes cast are displayed at the same time immediately prior to the announcement of the final vote. This method reduces or eliminates the potential for the changing of a vote based upon another Member's vote or to manipulate the outcome in a close vote.

8.0 Rule Suspension and Rule Deviation

Rule 8.1

The Presiding Officer may suspend certain rules.

Commentary

Rule 8.1, together with the Presiding Officer's general authority to exercise discretion (Rule 3.4), allows the Presiding Officer to suspend certain rules of order. The purpose of this authority is to advance meeting efficiency and to address special circumstances arising during a meeting or for an agenda item where the Body does not object to the suspension of the rule by an appeal of the Presiding Officer's decision.

The Presiding Officer may suspend only the following rules:

- Rule 1.2
  The meeting agenda will be followed unless properly amended or modified.

  The Presiding Officer may recognize that flexibility is needed in following the agenda to accommodate the planned late arrival of a Member; the availability of necessary staff, applicants, or speakers; or for other reasons related to efficiency. Rule 8.1 authorizes the Presiding Officer to suspend the requirement that the agenda be followed in the order presented.

- Rule 3.1
  The Presiding Officer shall be the exclusive director and facilitator of all meeting conduct.

  Suspension of Rule 3.1 may be appropriate when the Presiding Officer seeks a greater and active role in the discussion or debate on a matter that may be inconsistent with the Officer's general obligation to facilitate the meeting in a fair and neutral manner. See Rule 3.5. Rule 8.1 allows the Presiding Officer to "pass the gavel" to another Member in accordance with the Body's rules of procedure.

- Rule 4.1
  The Floor is required to address the Body.

  On occasion, forgoing the need to obtain the Floor can enable the Body to engage in a more freeform discussion on a topic.

✦ Rule 4.3

A Member's right to the Floor is limited to five minutes.

Some topics before the Body will generate significant discussion and debate, which may be hampered by Rule 4.3 and the time restriction for a Member's access to the Floor. Suspension of Rule 4.3 can alleviate the Members' concerns for meeting time limitations when offering comment or advocacy.

✦ Rule 4.4

A Member may obtain the Floor only once until other Members are afforded an opportunity.

Invariably, a topic before the Body for discussion or debate will be of far greater concern, if not passion, for one or a few Members. Those concerned or passionate Members oftentimes are better prepared to present relevant information to the Body that brings about a more focused or robust discussion. Where the Presiding Officer recognizes this concern or passion, a suspension of Rule 4.4 can grant to all Members the opportunity to more fully express their concerns, and the Body may generally benefit from the suspension.

✦ Rule 7.3

A Member's attempt to explain their vote after the call for the vote is not permitted.

Some debatable motions may not necessitate extensive debate. As an alternative, simple statements at the time of the cast of the vote will be an efficient means of memorializing the Members' opinions. Rule 8.1 allows the Presiding Officer to open the call for the vote to Members to explain their vote at the time of voting. The Presiding

Officer may wish to provide direction that the suspension is offered to forgo extensive debate for the purpose of efficiency and that the Members are to limit their explanations to summary statements.

✦ Rule 14.3
Only one Motion to Amend may be on the Floor at any one time.

The Presiding Officer may recognize circumstances where a Principal Motion will require a greater degree of modification by the Members to bring about a more effective, comprehensive, or acceptable decision by the Body. For example, some quasi-judicial matters will generate debate on a Principal Motion that integrates the Members' detailed evaluation of the presentations and evidence, and the evaluation may culminate in a variety of needed refinements to the motion. Suspending Rule 14.3 may provide flexibility to fashion a more refined motion, although the Presiding Officer should remain aware that a balance is needed between allowing debate on multiple amendments with the confusion that these proposed amendments may present for the Body. Suspension of Rule 14.3 to permit a limited number of amendments, e.g., only two on the Floor at one time, may be a reasonable approach.

The Presiding Officer's discretion in suspending a rule is subject to a Point of Appeal. The Point of Appeal effectively places the authority to suspend a rule in the hands of the Body, and, if a majority of the Body deems the exercise of authority appropriate or inappropriate, the Body's decision will govern the Presiding Officer's ability to suspend a rule.

Very importantly, the Presiding Officer shall not be authorized to suspend or alter any other rule and, in particular, the following:

- The availability of a point or a motion to the Body.
- The requirements or limitations established for a point or motion (e.g., whether the point does not require the Floor, a motion is or is not debatable or amendable, etc.).
- The vote required for any motion (majority, supermajority). Rule 7.5.
- The prohibition against proxy or absentee voting. Rule 7.2.

Rule 8.2

The Body may suspend certain rules.

Commentary

The Body may, by use of a Principal Motion with a majority vote of the quorum, suspend a rule of order subject to the same restrictions imposed by Rule 8.1 on the Presiding Officer's authority to suspend.

Rule 8.3

An inadvertent and non-substantive deviation from a rule by the Presiding Officer or the Body without objection from a Member is authorized and intended.

Commentary

From time to time, the Body's meeting conduct will inadvertently deviate from the requirements of a rule. For example, one or more

Members may speak during an agenda item for more than five minutes contrary to Rule 4.3, or the Presiding Officer may allow a Member the Floor to speak twice prior to opening the Floor to other Members contrary to Rule 4.4. However, the Members and the Presiding Officer may elect to not call the deviation to the attention of the Body to address or correct the deviation.

In the event that the Body deviates from the requirements of the *Rules of Order* without an objection from the Presiding Officer or a Member,[100] such deviation shall be deemed authorized in accordance with Rule 8.3. The purpose of this rule is to enable decisions of the Body to become final and not be subject to later challenge due to inadvertent or immaterial non-compliance with the *Rules of Order*.

The purpose of Rule 8.3 is to allow the Presiding Officer and Body to reach decisions and evaluate issues without an unnecessarily strict adherence to the *Rules of Order* and to provide a degree of flexibility to the meeting. The *Rules of Order* is not intended to be the "tail wagging the dog"[101] or for compliance with the rules to become the principal focus of the meeting.

Although Rule 8.3 establishes that most deviations without objection shall not undermine the finality of a decision, certain deviations are material or substantial in nature and may undermine the validity of a decision. These include:

- ✦ The Body's failure to abide by the required vote for a motion (e.g., majority or supermajority). Rule 7.6.
- ✦ The prohibition against proxy or absentee voting. Rule 7.2.

Rule 8.3 does not supersede the right of the Body to entertain a Motion to Reconsider as authorized by the *Rules of Order*. See Section 19.0. The Motion to Reconsider can enable the Body to reopen a decision and correct a material or substantial deficiency by rendering a new decision conforming to the *Rules of Order*.

CHAPTER 4

CLASS & PRIORITY OF POINTS AND MOTIONS

9.0 Class & Priority for Points and Motions

There are three classes[102] for motions and points:

Privileged
Main
Subordinate

Class determines the priority or importance of the motion or point and therefore determines whether the motion or point is "in order" when made, i.e., if the offered motion or point is appropriate for the Body to consider at the time it is presented.

Privileged Motions and Points

Privileged motions, as well as all three points, do not relate to a pending motion. Privileged motions and the points may be raised at any time, are not debatable, and involve an aspect of the meeting that needs to be resolved independent of the business that is then pending before the Body. Privileged *points* do not require the Floor; privileged *motions* require the Floor. The following points and motions are recognized as privileged:

- Point of Order
- Point of Information
- Point of Appeal
- Motion to Recess
- Motion for Executive Session

Main Motions

A main motion formally presents a proposition or question to the Body for action. A main motion can be made only when no other motion or point is pending. If a main motion is presented when another motion or point is pending before the Body, the proposed main motion is out of order.

The Body's primary or principal business motion, which is a main motion, is titled by *Bob's Rules* as a "Principal Motion." Together with the Principal Motion, there are four other main motions recognized by *Bob's Rules* that are commonly used in local government decision making. Unlike a Principal Motion, which can propose to the Body a virtually unlimited number of different subjects or topics for action, the other main motions focus the Body's attention on a specific action.

Altogether, the main motions include:

- Principal Motion
- Motion to Continue or Postpone (when no other main motion is pending)[103]
- Motion to Reconsider
- Motion to Adjourn

Pursuant to Rule 14.1, a main motion is only in order when no other motion is pending before the Body. Therefore, only one main motion may be on the Floor at any one time.

Subordinate Motions

A subordinate motion is related to and supplements or builds upon a pending main motion. As the name implies, this class of motion is "subordinate" or secondary to a main motion. The Body must address a proposed subordinate motion before a vote on the pending main motion. Once a subordinate motion receives a second and is on the Floor, neither the pending main motion to which the subordinate motion relates nor another subordinate motion is in order.

There are three recognized subordinate motions:

- Motion to Amend
- Motion to Continue or Postpone a Matter (when a main motion is pending)[104]
- Motion to Close Debate

CHAPTER 5

THE POINTS

10.0 Points Generally

Points are a special form of action available to address procedural deficiencies and critical or urgent questions or to challenge the Presiding Officer's decision in the conduct of the meeting. A point requires immediate resolution in order to maintain meeting efficiency. The point presents to the Body a matter of some urgency.

There are three points, which are each recognized and explained in Sections 11.0, 12.0, and 13.0:

- Point of Order
- Point of Information
- Point of Appeal

Rule 10.1

A point may be raised at any time.

Commentary

Because the points are matters of some urgency, points are privileged and are in order at any time. A point is temporarily more important than the matter on the Floor. Any disruption of the present discussion or debate resulting from a point is outweighed by the need for a resolution of the issue underlying the point.

Rule 10.2

A point does not require the Floor.

Commentary

An important aspect of a point is that it does not require the Member to request the Floor. A point is therefore an exception to Rule 4.1.

A Member offering a point may also interrupt another Member who has the Floor. Upon the verbal declaration of a point, the Member temporarily assumes the Floor for the limited purpose of stating the need for the point. The purpose of Rule 10.2 is efficiency. If a Member must await the opportunity to reach the Floor to raise a point, then the resolution of the error, the receipt of the needed information, or the demand for an appeal may come after the Body has devoted time to an inappropriate course of action.

Notwithstanding that a point does not require the Floor, it is a common courtesy when raising a point to await a break in the discussion or debate to limit any unnecessary disruption of the meeting or a speaker. Upon the declaration, the Presiding Officer shall ask any Member with the Floor to hold further comment, invite the Member declaring the point to clarify the issue of urgency, and then take appropriate action to resolve the point.

Rule 10.3

A point does not require a second.

Commentary

A point is not a motion and is not subject to Rule 5.3, which requires that all motions receive a second before the Presiding Officer may acknowledge a motion as properly on the Floor. The reason for this rule is efficiency. A point is simply an expression by a Member that a matter of urgency requires resolution and should be promptly entertained by the Presiding Officer. The consent or approval of another Member is not needed to present a point.

11.0 Point of Order

Purpose

A Point of Order allows any member to call into question the Body's actions regarding compliance with the rules of order.

Requirements and Limitations

Type of Action	Point of Order
When in Order?	At any time
Floor Required?	No
Second Required?	No
Debatable?	No
Subject to Motion to Amend? Friendly Amendment Possible?	No No
Vote Required?	No
Subject to Motion to Reconsider?	No

Commentary

A Point of Order (or to "raise a question of order" as it is sometimes expressed) is an opportunity for a Member to question whether the rules or procedures of the Body are being properly followed. The appropriate means of asserting the point is for the Member to await a break in the immediate discussion or debate and state, "Point of Order," and to then wait to be recognized by the Presiding Officer. Upon the Presiding Officer's recognition of the Point of Order, the Presiding Officer shall ask the Member to succinctly state the rule or procedure believed to be violated. A Point of Order does not require a second, is not debatable, is not amendable, and cannot be reconsidered.

The Point in Practice

As an example of a Point of Order, the Body's dialogue might include the following exchange:

Background:	Member A was granted the Floor and proposed a Principal Motion to approve a site plan for a new residential development. She begins to offer her reasons for the motion and engage in debate.
Member B:	"Point of Order."
Presiding Officer:	"Member A, excuse me a moment. Member B, what is your Point of Order?"
Member B:	"I believe we just started to debate a motion that did not receive a second. This is out of order because a motion requires a second before the motion may be on the Floor for debate."
Presiding Officer:	"You are correct, Member B, a second was not offered on the motion. Let us cease debate. Do I hear a second on the motion?"

[A second is offered.]

"We now have a proper motion that received a second. Member A, because you proposed the motion, you have the first right to the Floor and may continue your debate on the motion if you wish."

12.0 Point of Information

Purpose

A Point of Information[105] allows a Member to ask for and *receive* information about a specific matter that is urgent to the Member or to the Body. The need for information typically concerns meeting process or conduct, the clarification of a fact, or other informational matter that is best addressed in the moment and that cannot await an opportunity for the Member to obtain the Floor during discussion or debate. A simple example of the need for information may be to request that the temperature be increased in the meeting room. A more complex request may be to ask for clarification of conflicting testimony offered during a hearing.

Requirements and Limitations

Type of Action	Point of Information
When in Order?	At any time
Floor Required?	No
Second Required?	No
Debatable?	No
Subject to Motion to Amend?	No
Friendly Amendment Possible?	No
Vote Required?	No
Subject to Motion to Reconsider?	No

Commentary

A Point of Information is a request to receive *information*. A Point of Information is not an opportunity for a member to provide information to the Body. A Member's use of a Point of Information to provide information to the Body is out of order.

The Point in Practice

As an example of the proper use of a Point of Information, the Body's dialogue might include the following exchange:

Background:	The Body is engaged in discussion about traffic-calming strategies for a specific neighborhood. Member A has the Floor and offers his thoughts about the concerns raised by the neighborhood's residents.
Member B:	"Point of Information"
Presiding Officer:	"Excuse me a moment, Member A. Member B, what is your Point of Information?"
Member B:	"Member A said there are more than 5,000 vehicles passing through the intersection of Main Street and First Avenue during the peak rush hours. But I recall that our Traffic Engineer stated earlier in her presentation that the traffic count at that intersection during peak hours was at most only 1,500 vehicles. What is the correct number?"
Presiding Officer:	"Let's have the Traffic Engineer provide us the accurate figure for the traffic count."

[The Traffic Engineer provides an answer to the Point of Information as to the correct number of vehicles at peak hours.]

Presiding Officer: "Thank you for clarifying the information, Member B. Member A has the Floor and he may continue with his discussion."

Continuing the example above to illustrate an inappropriate use of a Point of Information, Member A engages in his discussion of traffic-calming improvements to address residents' concerns:

Member B: "Point of Information."

Presiding Officer: "Excuse me a moment, Member A. Member B, what is your Point of Information?"

Member B: "I would like to point out that for the last five years we have experienced rather excessive traffic at this intersection. I suggest that we consider a one-way street as a means of addressing the problem. Further, I believe that…"

Presiding Officer: "Sorry for the interruption, Member B, but I must call you to order. A Point of Information is only available to obtain information necessary to ensure meeting efficiency. You are attempting to provide information to the Body. For that, you need to first have the Floor, which will be provided to you during the course of this discussion. Thank you. Member A, you may continue your discussion."

13.0 Point of Appeal

Purpose

A Point of Appeal provides a Member an opportunity to challenge a decision of the Presiding Officer concerning the application of the rules of order.

Requirements and Limitations

Type of Action	Point of Appeal
When in Order?	Immediately following a Presiding Officer's decision
Floor Required?	No
Second Required?	No
Debatable?	No, but the Moving Member may make a brief statement of the reason for appeal. The Presiding Officer may briefly reply.
Subject to Motion to Amend? Friendly Amendment Possible?	No No
Vote Required?	Majority of quorum
Subject to Motion to Reconsider?	No

Commentary

A Point of Appeal is a request by a Member to challenge a decision of the Presiding Officer concerning the application of the rules of order. A Point of Appeal shall be in order immediately following the Presiding Officer's decision. A Point of Appeal is out of order and unavailable where the Body has relied upon the Presiding Officer's decision and continued and concluded the matter in reliance upon, or in accordance with, the Presiding Officer's decision.

No debate is permitted on a Point of Appeal, although the Member making the Point of Appeal may briefly state the reason for the appeal, and the Presiding Officer may briefly explain the Officer's decision. Unless the Presiding Officer agrees with the appeal, corrects the decision, and brings the Body into conformance with the rules, the appeal should proceed, and a vote of the Body will be needed to decide whether to uphold the Presiding Officer's decision.

As a challenge to the Presiding Officer's decision, the point asks whether the Presiding Officer's decision should be upheld. A majority vote is required to support the Presiding Officer's decision. The Presiding Officer is permitted to vote on the appeal. Upon failure to uphold the Presiding Officer's decision, the decision is overruled or invalidated, and the Presiding Officer and Body then continue in the consideration of the matter. If necessary, a new decision may be offered by the Presiding Officer following the successful appeal.

The Point in Practice

The following exchange is an example of the proper use of a Point of Appeal:

Background:	The Body is engaged in debate on a properly seconded motion. A Member who has the Floor offers a Motion to Close Debate.
Presiding Officer:	"We have on the Floor a Motion to Close Debate, and the motion was seconded. The vote on a Motion to Close Debate is not debatable and will require a majority vote of the quorum."
Member A:	"Point of Appeal."

Presiding Officer: "Member A has raised a Point of Appeal. Member A, what is your appeal and the brief reason for the appeal?"

Member A: "I appeal the Presiding Officer's decision regarding the required vote on a Motion to Close Debate. A Motion to Close Debate requires a two-thirds vote pursuant to our rules of order."

Presiding Officer: "I believe that closing debate is a rather simple matter only requiring a majority vote like nearly all of our motions.

"We shall now vote on the appeal. Member A appeals my decision that a vote on a Motion to Close Debate requires a simple majority of this quorum. The question we are now voting on is 'Shall the decision of the Presiding Officer be upheld—that is, am I correct in my decision?' A Point of Appeal requires a majority vote. Will the clerk please call for the vote?"

[The motion receives one "yes" vote and six "no" votes on the appeal and therefore fails to uphold the Presiding Officer's decision.]

Presiding Officer: "My decision is overturned on appeal. In looking at our *Rules of Order*, I stand corrected. I will now declare that the Motion to Close Debate will require a vote of two-thirds of the members of the Body. I will thank Member A for correcting my error. Unless we have an appeal of my decision now requiring a two-thirds vote, let us proceed to the vote on the Motion to Close Debate."

In the preceding example, the Presiding Officer could forgo the process of formal voting on the appeal and instead recognize the error in the proceedings and correct the error:

Background: Member A poses the Point of Appeal and the challenge to the Presiding Officer's decision concerning the required vote for a Motion to Close Debate.

Presiding Officer: "Member A appeals my decision regarding the required vote.

"Please give me an opportunity to look at the *Rules of Order*. I invite our Town Attorney or the Town Clerk to also offer an opinion on this matter."

Presiding Officer: "Thank you for indulging my brief break. I have reviewed the *Rules of Order*, and I stand corrected. The vote on a Motion to Close Debate is a two-thirds majority.

"Member A, thank you for that Point of Appeal, and I will consider the Point of Appeal resolved. We can now proceed to vote on the Motion to Close Debate."

CHAPTER 6
THE MOTIONS

14.0 Motions Generally

A motion is a means to formally ask the Body to take action. All motions are subject to procedural rules to ensure that each motion is made in a timely manner and that the motion is in a form sufficient to enable the Body to render a definitive decision.

All efficient deliberative bodies use motions. All published handbooks offering procedural meeting rules identify numerous motions available to conduct a wide variety of different business and procedural actions. However, it is the specific purpose and particular duties of a Body that best determine the necessary or needed motions. For the purpose and duties of nearly all Colorado local government councils, boards, commissions, and committees—other than perhaps a few of the largest—the necessary or needed motions to conduct local government business include only:

- Principal Motion — Section 15.0
- Motion to Continue or Postpone — Section 16.0
- Motion to Amend — Section 17.0
- Motion to Close Debate — Section 18.0
- Motion to Reconsider — Section 19.0
- Motion to Recess — Section 20.0
- Motion to Adjourn — Section 21.0
- Motion for an Executive Session — Section 22.0

Rule 14.1

A main motion is only in order when no other motion is on the Floor.

Commentary

A main motion offers to the Body a general proposition for consideration and debate. Main motions rank lowest in priority, and a main motion is therefore only in order when no other motion is pending before the Body.

The four main motions, which each propose the taking of a general action by the Body, are:

- Principal Motion (a principal business action)
- Motion to Continue or Postpone (when no other main motion is pending)[106]
- Motion to Reconsider
- Motion to Adjourn

Because a main motion proposes an action that is unrelated to any existing business before the Body, Rule 14.1 advances efficiency by ensuring that the Body is not presently engaged in debate on any other motion. It would be inefficient for the Body—while engaged in debate on another motion—to turn its attention to a new and different proposition and to essentially "juggle" debate on two or more motions.

Rule 14.1 is limited to the presentation of a main motion. Note that, following a main motion being placed on the Floor, subordinate or privileged motions may arise that will relate to the main motion or to a matter that will affect the consideration of the main motion.

Rule 14.2

A debatable motion may be amended by either:

- A Motion to Amend; or
- A Friendly Amendment pursuant to Rule 6.1.

Commentary

Rule 14.2 primarily recognizes that only *debatable*[107] motions may be amended.

Some motions propose a singular, defined, and limited request or proposition. Being comprehensive and complete, these types of motions do not lend themselves to debate and are nondebatable.[108] Any modification or amendment of the nondebatable motions would likely contravene the singular purpose of the motion. As an example, a Motion to Close Debate presents only one proposition, which is to close debate. Any attempt to amend a Motion to Close Debate would likely defeat its limited and specific purpose of closing debate. Nondebatable motions proceed directly to a vote of the Body.

Other motions are not singular in purpose, are less refined, and may not completely detail a decision that will be suitable for the required vote of the Body. Such motions therefore present an opportunity for the Body to debate. Debate can often inform the Body that an amendment can clarify, expand, limit, or otherwise modify the motion to meet the needs of the Body. For example, a Motion to Continue or Postpone is debatable, and, during debate, a Member may advocate that the matter need not be continued, or the Member may seek to modify the motion by proposing a different date for the proposed continuation or postponement. A Principal Motion, which is the general business motion, is often broadly stated and may not always include the specificity needed to satisfy other Members of the Body. Principal Motions are debatable and present the most common need for amendment. Amendment of the Principal Motion is often necessary to limit or tailor the motion's purpose, to address the Body's concerns, and to ensure that the motion can receive a fair opportunity for consideration and for a potential majority vote.

As to debatable motions, the two means to amend the motion are a formal Motion to Amend (Section 17.0) and the Friendly Amendment (Rule 6.1).

Rule 14.3

Only one Motion to Amend may be on the Floor at any one time.

Commentary

Motions to Amend are exceedingly common and are often appropriate to tailor a pending main motion into a form acceptable to the Body. At the same time, no meeting practice is more fraught with the potential for confusion than a Motion to Amend.

Most Motions to Amend are straightforward and present little problem for the Body. For example, assume a Principal Motion (a main motion) is offered to approve a land-development application for a new apartment complex. A Motion to Amend (a subordinate motion) is then proposed that will amend the Principal Motion. The amending motion would "require the developer to install a landscape buffer of seven coniferous trees, each a minimum of five feet in height, spaced at least 12 feet apart from one another, and located within a strip between 10 and 20 feet along the west property line in order to protect the adjacent residential property from noise and headlight impacts." Although this Motion to Amend may appear complex based on the number of words in the motion and the references to numbers, heights, and distances, it can be easily understood by the Body because it is a single motion dealing with a single issue of buffering the development with measurable requirements. Once this Motion to Amend is approved, the Principal Motion will stand as amended, and a vote may be taken on the motion as amended.

Following the conclusion of this amendment, one or more other amendments may be proposed and the Motions to Amend handled, one at a time, until the Body is satisfied with the form of the Principal Motion, and it can then proceed to vote on the motion as amended.

Confusion can arise, however, when multiple Motions to Amend are offered and are pending at the same time. This is particularly true where the first Motion to Amend proposes to modify the main motion, the second Motion to Amend proposes to further modify the first motion as it would be amended (that is, the second amendment contemplates that the first amendment will be approved), and the Body engages in debate that includes comments advocating both for and against one or both of the offered amendments. Further, if the motions contain details, numbers, heights, and distances, it can readily be observed that the meeting efficiency will best be served by limiting the number of Motions to Amend placed before the Body at any one time.

In the interest of limiting confusion and creating greater efficiency, *Bob's Rules of Order* prohibits the offering of more than one Motion to Amend at any one time. Under this rule, a single Motion to Amend is in order and will be dispensed with by vote or withdrawal prior to the offering of another Motion to Amend.

Given the limited scope and straightforward nature of local government decisions, limiting the number of Motions to Amend to one at a time presents little, if any, problem. Most matters that are addressed by local government are not sufficiently complex as to require multiple amendments of the main motion. And experience proves that the offering of multiple Motions to Amend is infrequent, if not rare, for most local government matters. On the off chance that multiple Motions to Amend are necessary, the Presiding Officer or the Body can suspend Rule 14.3 on a case-by-case basis. See Rules 8.1 and 8.2.

15.0 Principal Motion

Purpose

The *Rules of Order* recognizes the *Principal Motion*[109] as the title of a main motion that presents a general proposition or a request that the Body take an action. The Principal Motion is intended to address any action other than the actions described in the other seven motions authorized by the *Rules*.

Requirements and Limitations

Type of Action	Main motion
When in Order?	When no motion is pending
Floor Required?	Yes
Second Required?	Yes
Debatable?	Yes
Subject to Motion to Amend? Friendly Amendment Possible?	Yes Yes

Vote Required?	Ordinarily, a majority of the quorum, but some motions will require a supermajority vote. Consult with legal counsel.
Subject to Motion to Reconsider?	Yes

Commentary

There are as many Principal Motions as there are subject matters that the Body may consider. To be in order, a Principal Motion must state an affirmative or positive proposition or question. See Rule 5.2.

Regarding the vote required for a Principal Motion, the vast majority of these motions will be subject to the common rule that requires a majority of a quorum for approval. See Rule 7.6.

However, for Colorado local government, special statutory voting requirements may also be imposed that will require a Principal Motion to meet a different voting requirement. The local government attorney should be consulted regarding the special voting requirements of state and local law and whether the requirements are applicable to the Principal Motion before the Body. By way of just two examples:

- A *municipality's* Principal Motion to adopt an emergency ordinance requires a vote of three-fourths (3/4) of the members of the governing body of the municipality.[110]
- Colorado state law requires a two-thirds (2/3) vote of all the Members of the governing body of *a municipality* to approve a change in zoning or zoning regulations in the event of a properly filed protest.[111]

16.0 Motion to Continue or Postpone

- To a Future Day and Time
- To an Uncertain Time
- Indefinitely

Purpose

The purpose of a Motion to Continue or Postpone[112] is to defer or delay consideration of an agenda item. The deferral or delay may take the form of three different options related to time described in this section.

Requirements and Limitations

Type of Action	■ *Main* motion when no other motion is pending ■ *Subordinate* motion when a Principal Motion is pending
When in Order?	Only when no motion or only a Principal Motion is pending
Floor Required?	Yes
Second Required?	Yes
Debatable?	Yes
Subject to Motion to Amend? Friendly Amendment Possible?	No No
Vote Required?	Majority of quorum
Subject to Motion to Reconsider?	Yes

Commentary

The Motion to Continue or Postpone is an effective and necessary tool for local government meetings. The Body may wish to postpone a scheduled agenda item that is not yet before the Body for a variety of reasons, such as lacking sufficient time for a full consideration of the item or the absence of the applicant or a key staff member. For an agenda item that is open and before the Body, the Body may learn during discussion or debate that certain information is needed for a decision, and a continuation of the item will allow the information to be assembled and presented to the Body at a later date.

A Motion to Continue or Postpone an agenda item is available regardless of whether the item is not yet pending before the Body or the item is open[113] and under consideration. Using the term "continue," "postpone," "delay," or some other expression in the motion is not important as long as the clear intent of the motion is to delay the matter to a specified date and time, to an uncertain date and time, or indefinitely as referenced in the motion.

The Motion to Continue or Postpone is a hybrid motion, meaning it can serve as a main motion or as a subordinate motion. The motion is available as a main motion when it is used to continue a matter when no motion is on the Floor. The motion is available as a subordinate motion when a Principal Motion is on the Floor and before the Body.[114]

A Motion to Continue or Postpone is not in order when a privileged motion (such as a Motion to Recess) or a subordinate motion (such as a Motion to Amend) is on the Floor. Resolution of all privileged and subordinate motions is necessary before offering a Motion to Continue or Postpone.

A Motion to Continue or Postpone should be used as a *main motion* whenever possible—that is, when no other *motion* is pending before the Body. Continuing or postponing a matter when a Principal Motion is on the Floor, although permitted, can create some complexity for the local government meeting. In the event that a Principal Motion is on the Floor, the continuation or postponement of the agenda item will carry forward the pending Principal Motion to the future meeting. However, a local government, at its finest, is often challenged to accurately recall and restate a motion that was pending during a meeting just a few weeks prior, let alone accurately recall a motion that was on the Floor several months or a year ago. But when offered as a main motion, the Motion to Continue or Postpone will allow the Body to take up the matter knowing that no motion was pending on the Floor from the previous meeting.

The Motion to Continue or Postpone requires a decision from the Moving Member regarding the proposed duration of the continuation from among three options:

- To a future day and time
- To an uncertain time
- Indefinitely

To a Future Day and Time

The Motion to Continue or Postpone an agenda item may be stated as a continuation or postponement to a *specific* future date and time.

The motion will require that the Moving Member identify the specific date and time for the agenda item to be returned to the Body. The Body's legal counsel may also recommend that the location (place) where the continued or postponed matter will be heard be included in the motion, especially when the Body uses multiple locations for meetings, may alternate between in-person and virtual meetings, or specifically when the matter is quasi-judicial in nature and notice is of significant importance to ensure fairness.[115]

To an Uncertain Time

The Motion to Continue or Postpone an agenda item may be stated *without* a specific time for the matter to be returned to the Body. This motion is not a Motion to Continue or Postpone indefinitely (see below). Instead, the motion *requires* the agenda item to be returned to the Body, but the date of the return cannot be established with any certainty. A common reason for such a motion would be that the setting of the agenda item on a future agenda requires an evaluation of other items to come before the Body on future agendas that may be of more urgency or importance. Additionally, it may be necessary to coordinate the attendance of necessary staff members or consultants at the future meeting. Continuing or postponing to an uncertain time can provide the manager or administrator the flexibility of returning the agenda item to the Body as time and resources permit. As with continuing or postponing to a future date and time, it may be necessary to republish or repost notice of the continued matter and the meeting date, time, and place once the meeting date is determined.

Indefinitely

A Body may need to remove an item from the agenda or cease consideration of an open agenda item with the understanding that the item will not be returned or reintroduced to the Body in the future. This need may be based upon the fact that the matter is no longer a concern for the local government or that the Body anticipates there is insufficient interest or support to devote any amount of time to the consideration of the agenda item. A successful Motion to Continue or Postpone *indefinitely* will effectively remove the item from the agenda and also direct that the item will not be rescheduled for later consideration. A Motion to Continue or Postpone indefinitely will not prevent the Body from taking up the topic in the future, although the setting of a new agenda item would be necessary to bring the topic back before the Body.

As an important caution, a Motion to Continue or Postpone indefinitely is not advisable where the item involves a quasi-judicial matter. Recall that, for quasi-judicial matters, the applicant has a legal right to a hearing, the opportunity to be heard, and a right to a final decision of the government.[116] Indefinitely postponing an agenda item may appear to deprive the applicant of the right to be heard and a decision. Legal counsel should be consulted regarding the use of this motion for any quasi-judicial matter and, more appropriately, to consider the use of a Motion to Continue or Postpone to a future day and time or to an uncertain time, which motion expresses a direction that the quasi-judicial matter will be heard and decided in the future.

The Motion in Practice

As an example of a Motion to Continue or Postpone an agenda item to a future date and time, the motion may be stated as:

"I move to continue Agenda Item 13(b), which is a discussion of County Property Tax Revenue Projections, to April 16, 2026, at 4:00 p.m. here in the Commissioner's Board Room."

As an example of a Motion to Continue or Postpone an agenda item that is open and under discussion or debate to an uncertain time, the motion might be stated as:

"I agree with the proposal before us to adjust the fees for the Center Park Swimming Pool, but I believe we need more information on the actual number of visits we experienced over the last five years. Whether the visits are increasing or decreasing is relevant in my decision to set new fees. We need to give the City Manager time to assemble the data and to find time on a future agenda for us to continue this discussion. I move to continue this discussion of the fees to be charged next year for the use of the Center Park Swimming Pool to an uncertain date and time."

As an example of a Motion to Continue or Postpone an agenda item indefinitely, the motion might be stated as:

"I move to postpone indefinitely Ordinance Number 22, which would require all cats in the town be kept on a leash."

17.0 Motion to Amend

Purpose

The purpose of a Motion to Amend is to modify a *debatable* motion on the Floor.

Requirements and Limitations

Type of Action	**Subordinate motion (to a debatable motion)**
When in Order?	When a *debatable* motion is on the Floor
Floor Required?	Yes
Second Required?	Yes
Debatable?	Yes
Subject to Motion to Amend? Friendly Amendment Possible?	No No
Vote Required?	Majority of quorum
Subject to Motion to Reconsider?	No

Commentary

A Motion to Amend is available and applicable only to a debatable motion on the Floor. The motion must provide specificity as to the intended amendment of the debatable motion. See Rule 5.2.

To advance the efficiency of a meeting, Rule 14.3 prohibits a second Motion to Amend when a Motion to Amend is already on the Floor.

The Motion in Practice

The following dialogue highlights the offer of a Motion to Amend a debatable motion.

Background:	The Body is considering Ordinance No. 6, which would create a new municipal offense for an unlicensed animal. The Ordinance provides for a penalty for the first offense of $100. The Body is concluding its discussion of the Ordinance.
Member A:	"I move to approve Ordinance No. 6 as presented to us tonight."
Member B:	"Second."
Presiding Officer:	"We have a proper Principal Motion on the Floor that has received a second to approve Ordinance No. 6. Any discussion?"

[Member C requests the Floor.]

Presiding Officer:	"Yes, Member C, the Floor is yours."
Member C:	"Thank you. I move to amend the motion to change the amount of the penalty for the first violation as stated in section 1-1-3 on page 3 of

	Ordinance No. 6 from $100 for the first offense to $200 for the first offense."
Member D:	"Second."
Presiding Officer:	"We have a Motion to Amend before us to change the penalty in section 1-1-3 of Ordinance No. 6 from $100 to $200 for the first offense. We will debate the Motion to Amend first before we consider the Principal Motion to approve Ordinance No. 6. The Motion to Amend is debatable and requires a simple majority vote. Member C, Rule 5.6 allows you the right to the Floor first to speak to your Motion to Amend."
Member A:	"Thank you, but I am fine with the motion I offered."
Presiding Officer:	"I see no one else wishing to comment or debate the offered Motion to Amend Ordinance No. 6. The Motion to Amend will make a change in section 1-1-3 of Ordinance No. 6 to set a $200 penalty for the first offense. Would the clerk call for the vote on the Motion to Amend only?"
	[Motion receives majority vote of approval.]
Presiding Officer:	"The Motion to Amend is approved, so Ordinance No. 6 is now amended to change the penalty for a first offense to $200. We now turn to the Principal Motion to approve Ordinance 6. Any debate on Ordinance No. 6 as amended?"

[The consideration of the Principal Motion to approve Ordinance No. 6 as amended continues.]

18.0 Motion to Close Debate

Purpose

A Motion to Close Debate, which is sometimes confusingly expressed as a "Motion to Call the Question,"[117] will allow the Body to cease debate, which will effectively require an immediate vote on a pending debatable motion.

Requirements and Limitations

Type of Action	**Subordinate motion**
When in Order?	When a *debatable* motion is on the Floor
Floor Required?	Yes
Second Required?	Yes
Debatable?	No
Subject to Motion to Amend? Friendly Amendment Possible?	No No
Vote Required?	Two-thirds (2/3) of the quorum
Subject to Motion to Reconsider?	No

Commentary

A Motion to Close Debate is a subordinate motion available only while a *debatable* motion is on the Floor. Understandably, the motion is only in order for debatable motions because there is no need to close debate when the motion is not subject to debate. But, very importantly, the motion is not available to stop the Body's discussion when no motion is on the Floor.

The approval of a Motion to Close Debate will require the Presiding Officer to immediately call for the vote on the pending debatable motion.

The Motion to Close Debate is not a debatable motion because the motion presents a single unambiguous proposition—that is, to close debate on the pending debatable motion. Members must vote on the proposition to cease the debate, or, if the vote is unsuccessful, the Body will continue the debate.

Because the motion will deny the Members the right to debate the merits of a pending motion, a supermajority vote of two-thirds (2/3) of the quorum is required. This supermajority is appropriate. Denying the voice of Members can be viewed as antithetical to local government's goals of an open, transparent, and participatory meeting. However, there is a point at which debate becomes stale, arguments repeated, and no new issues are raised concerning the need to approve or reject the pending motion. In these cases, a Motion to Close Debate may be in order.

The Motion in Practice

As an example of a Motion to Close Debate and a Point of Information, the dialogue of the Body might include the following exchange:

Background: A debatable Principal Motion to approve a land-use application is pending before the Body. The Body is engaged in debate. The Members have actively participated in the debate, and most everyone has expressed their views. The debate is becoming repetitive. Member A has the Floor.

Member A: "I move to close debate."

Member B: "Second."

Presiding Officer: "We have a Motion to Close Debate. If approved, this motion will close any continuing debate on the motion to approve the land-use application that is presently before us. We would then proceed immediately to a vote on the motion to approve. A Motion to Close Debate is not debatable and will require a supermajority of our quorum by a two-thirds vote. Would the clerk please call for the vote?"

Member C: "Point of Information."

Presiding Officer: "Let us hold for a moment on the call for the vote. Member C, what is your Point of Information?"

Member C: "I have not yet offered my concerns about the land-use application. Will I get a chance to speak before we vote?"

Presiding Officer: "No, if the Motion to Close Debate is successfully approved by a vote of two-thirds of the quorum, no further debate will be allowed, and we will vote on the motion to approve the land-use application."

[The Motion to Close Debate is approved by the required two-thirds of the quorum.]

Presiding Officer: "The Motion to Close Debate is approved. No further debate is permitted on the pending Principal Motion to approve the land-use application. I will ask the City Clerk to please call for the vote on the Principal Motion to approve."

19.0 Motion to Reconsider

Purpose

The purpose of a Motion to Reconsider is to effectively negate or vacate a previous decision on a motion of the Body and to return the Body to a point immediately prior to the offer of the previously approved motion. The Motion to Reconsider allows the Body to recommence debate and eventually propose a new motion or action regarding the matter. A Motion to Reconsider does not automatically reverse the prior decision of the Body.

Requirements and Limitations

Type of Action	**Main motion**
When in Order?	Only when: (1) No motion is pending before the Body; and (2) When made by a Member who voted on the prevailing side of the decision to be reconsidered; and (a) at the same meeting at which the decision to be reconsidered was approved; or (b) at the *next regular meeting* of the Body at which the decision to be reconsidered was approved.
Floor Required?	Yes
Second Required?	Yes

Debatable?	Yes, but only as to the reasons to support the reconsideration. No debate of the original decision is allowed.
Subject to Motion to Amend? Friendly Amendment Possible?	No No
Vote Required?	Two-thirds (2/3) of the quorum

Commentary

A Motion to Reconsider is an extraordinary motion that requires a degree of care when presenting and, if approved, care in processing the matter to be reconsidered. A successful Motion to Reconsider will effectively negate or vacate the vote on a previously decided motion and cause the matter to be reopened for reconsideration, and another motion to approve or reject the matter would be in order at the time of reconsideration.

Due to the potential effect of a Motion to Reconsider on a previously rendered decision of the Body and the legal rights of interested parties, it is strongly recommended that the Body's legal counsel be consulted regarding any proposal to offer a Motion to Reconsider. This is especially true for quasi-judicial[118] decisions.

Very importantly, a Motion to Reconsider is only in order at the same meeting at which the decision to be reconsidered was made or at the *next* regular meeting of the Body. The reason for this requirement is that a decision of the Body must become final with some promptness so that actions can be taken to implement the decision. For example, the approval of a construction contract will require the execution of the contract by the contractor and the government. Once the contract is executed and the construction project is underway, the potential reversal of the approval of the construction contract could potentially expose the government to a claim for breach of contract. Limitations on the timing and availability of a Motion for Reconsideration are therefore necessary.

The Motion to Reconsider must be made by a Member who voted with the prevailing majority on the approval of the original motion. The reason for this requirement is that a decision made by a majority of the Body constitutes a decision of the entire Body even though one or more Members voted in the minority. It makes reasonable sense that only a Member who voted affirmatively as part of the prevailing majority should be authorized to seek reconsideration of the majority's decision. A Motion to Reconsider does not provide an opportunity for a voter in the minority of a decision to challenge the majority. A Motion to Reconsider is out of order when offered by a Member of the minority.

The required second on the motion need *not* be made by a Member from the prevailing side. A second is merely offered as the Member's support for the Body to enter debate on the motion or to advance the proposed motion to a vote. See Commentary for Rule 5.3.

The Motion to Reconsider is debatable only for the reasons to explain or justify the need for a reconsideration of a decision. It would be out of order to use a Motion to Reconsider as a means to reengage the debate on the merits of a prior decision. For example, the Member seeking a Motion to Reconsider may assert that the reconsideration is necessary due to further reflection by the Member upon the evidence that was presented during a public hearing or that the Member's subsequent and more detailed review of a contract approved by the Body warrants a new discussion and new vote. The Motion to Reconsider only asks the Body to vacate its prior decision and reopen the matter for additional consideration. If approved, only then would the Body be authorized to engage in the debate on the merits of the original matter.

A supermajority vote of two-thirds (2/3) of the quorum is required for approval. This higher voting standard makes reasonable sense. Permitting a simple majority of a quorum to reopen a previous final decision of the Body can be disruptive to the goal of finality of decision making and, moreover, would potentially subject a greater number of final decisions to be reopened merely when one Member in the majority had a change of heart. The supermajority ensures that strong support exists to warrant reopening a decided matter or issue.

Once a Motion to Reconsider is approved by the required supermajority, the previous decision is negated or vacated, and the matter will be reopened for additional evaluation and consideration. All proceedings, testimony, evidence, and debate on the matter that was presented during the initial consideration of the original matter will remain part of the official record when the matter is reopened; only the decision or vote taken is negated or vacated. In effect, a successful Motion to Reconsider returns the Body to a point prior to the original motion and then leaves the matter undecided until a new motion is offered following reconsideration.

In the event of a successful vote on a Motion to Reconsider, it is recommended that the reconsideration of the original matter be scheduled for a future meeting as opposed to being heard at the same meeting at which the Motion to Reconsider was approved. This recommendation stems from the fact that the matter under reconsideration may oftentimes require new public notice so that interested parties (and especially an applicant in a quasi-judicial matter whose rights are potentially affected by the reconsideration) are apprised of the reconsideration and can attend and participate in the reconsideration. Even when a successful Motion to Reconsider is presented in the same night as the motion subject to reconsideration, the parties present for the original matter and motion may have departed the meeting after what appeared to those attending to be a final decision on the original motion. Fairness, as well as the transparency of government, will often dictate that the reconsideration be scheduled for a future meeting and new notice be provided in a manner consistent with the original matter being reconsidered. Again, due to the extraordinary nature of a Motion to Reconsider and the potential impact on the rights of interested parties, the Body's legal counsel should always be consulted on the use of a Motion to Reconsider and the potential impacts of the action.

Special Note: Reconsideration and Repeal

There are important differences between the reconsideration of a decision and the repeal of a decision. Reconsideration will vacate the previous decision and return the Body to the point immediately prior to the motion and the decision. The offer of a Motion to Reconsider is limited by time (presented only at the same meeting or the next regular meeting of the Body), may only be offered by a Member who voted on the prevailing side of the original motion, and requires a two-thirds (2/3) vote of the quorum for approval.

In contrast, the repeal of a decision will summarily rescind or annul a previous decision. Because a repeal would require a Principal Motion (e.g., "I move to repeal Ordinance 19"), the motion is not limited by time, may be made by any Member, and requires only a majority vote. However, it is critically important that the Body consult with local legal counsel regarding the legal implications associated with any proposed repeal. Some decisions by law are not subject to repeal, some decisions cannot be repealed because irrevocable actions were undertaken in reliance on the decision, and a repeal may undermine the legal rights of the local government and individuals who relied upon the original decision.[119]

The Motion in Practice

As an example of a Motion to Reconsider, the Body's dialogue might involve the following exchange:

Background:	No motion is pending. Member A has the Floor.
Member A:	"I move to reconsider our decision to approve Ordinance 14, which required all owners to keep their dogs on leashes at all times. Ordinance 14 was approved at our last meeting, and I voted with the majority in approving the Ordinance."
Member B	"Second."
Member C:	"Point of Order."
Presiding Officer:	"Member C, what is your Point of Order?"
Member C:	"Member B was not on the prevailing side of the original vote on the matter. His second is out of order."
Presiding Officer:	"Our rules of order provide that a second to a Motion to Reconsider may be offered by any Member. I accept the second. "On the Floor is a Motion to Reconsider Ordinance 14 concerning our new dog-leash law. The motion was properly seconded. If we approve this Motion to Reconsider, the motion will negate

or vacate our prior decision on Ordinance 14 and then require us to reengage in continuing debate on the Ordinance. If approved, any future action on Ordinance 14 will require a new motion and a new vote.

"Member A, did you want to speak to your Motion to Reconsider? Please note that you are free to discuss the reason why you wish to seek reconsideration, but this is not an opportunity to debate the merits of Ordinance 14. If your Motion to Reconsider is successful, we will reopen the debate on the merits of Ordinance 14."

Member A: "Thank you. I would like us to reconsider Ordinance 14 because, upon reflection over the last week, I learned that many communities have alternatives to restricting dogs to a leash, like voice command. I do not think we adequately explored any alternatives. I am proposing that we reopen the matter for more discussion, especially on alternatives to using a leash."

Presiding Officer: "Any other debate concerning whether we should reconsider Ordinance 14? Seeing none, please note that approval of a Motion to Reconsider requires a supermajority of two-thirds of the quorum. I call to the Body's attention that Ordinance 14 was not on our agenda tonight, so, if the Motion to Reconsider is approved, our staff will need to schedule Ordinance 14 on a future agenda. Also, the staff will need to provide or publish any required notices to the public

	concerning our reconsideration of Ordinance 14. The clerk will call the vote."
	[The Motion to Reconsider fails to gain a supermajority vote of two-thirds of the quorum.]
Presiding Officer:	"The motion fails. We will now move to the next item on our agenda."

20.0 Motion to Recess

Purpose

The purpose of a Motion to Recess is to provide the Body a temporary break in the meeting.

Requirements and Limitations

Type of Action	**Privileged motion**
When in Order?	Any time
Floor Required?	Yes
Second Required?	Yes
Debatable?	No
Subject to Motion to Amend? Friendly Amendment Possible?	No No
Vote Required?	Majority of quorum
Subject to Motion to Reconsider?	No

Commentary

A recess may be needed for a variety of reasons, including a restroom break, to allow citizens an opportunity to exit the room at the conclusion of an agenda item without disrupting the proceedings, to allow a Member to consult with legal counsel, or to simply reduce the Members' meeting stress during or after a contentious hearing. The motion is privileged and may be offered at any time.

A Motion to Recess is a necessary motion for the Body because it is common that a bylaw provision for the Body appropriately prohibits Members from leaving the meeting room without an approved recess or without the discretionary consent of the Presiding Officer. Additionally, leaving the meeting room during a quasi-judicial hearing can be problematic because Members' continuous presence is needed to hear all the available evidence that will support the decision. An absence from the meeting room can also potentially deprive the meeting of a quorum when the quorum was established with the minimum number of Members.

However, a Motion to Recess is not typically needed because the Presiding Officer will oftentimes use discretion (see Rule 3.4) to declare a recess at appropriate times or between lengthy agenda items. The Presiding Officer can also use discretion to unilaterally call for a recess in response to a Member's Point of Information asking if a recess would be entertained.

Notwithstanding that a formal Motion to Recess may not be commonly needed, the availability of the motion is necessary. The Presiding Officer may desire to push ahead on the agenda, yet a majority of the Body supports taking a break. In such a case, a Motion to Recess is the appropriate means for a majority of Members to defeat the Presiding Officer's direction. And, in such an instance, a formal Motion to Recess is preferable to a Point of Appeal that would challenge the Presiding Officer's decision to not take a recess. A Point of Appeal can be seen as an adversarial move to challenge the Presiding Officer's leadership. In contrast, a Motion to Recess is seen as a more positive approach simply assessing the interests of the Body to take a break.

A Motion to Recess does not require a stated reason for the recess. However, a reason, as well as the duration of break desired, can assist Members in supporting the motion or persuading the Presiding Officer to unilaterally call for a recess.

The Motion in Practice

As an example of a Motion to Recess, the following dialogue highlights the manner in which the motion might arise:

Background:	The Body is debating a Principal Motion to approve the annual budget.
Member A:	"Point of Information."
Presiding Officer:	"Member A, what is your Point of Information?
Member A:	"Would the Presiding Officer entertain a recess for 15 minutes or until 7:30 so I may take care of an important phone call?"
Presiding Officer:	"I am not inclined to call a recess. We have a lengthy agenda, and I would like to adjourn this meeting at a reasonable hour this evening. I expect we will complete this agenda item in ten minutes, and we can entertain a recess at that time."
Member A:	[who requested and was granted the Floor] "Thank you. I move to recess the meeting for 15 minutes and reassemble at 7:30."
Member B:	"Second."
Presiding Officer:	"We have a Motion to Recess until 7:30, and the motion received a second. This motion is not debatable and requires a majority vote of the

Body for approval. The clerk shall call for the vote."

[The Body abides by the result of the vote.]

21.0 Motion to Adjourn

Purpose

The purpose of a Motion to Adjourn is to allow the Body to formally terminate the meeting by vote.

Requirements and Limitations

Type of Action	Main motion
When in Order?	When no motion is pending before the Body
Floor Required?	Yes
Second Required?	Yes
Debatable?	Yes
Subject to Motion to Amend? Friendly Amendment Possible?	No No
Vote Required?	Majority of quorum
Subject to Motion to Reconsider?	No

Commentary

Rule 1.6 provides that a meeting cannot conclude without a formal action. Rule 1.6 is necessary to prevent Members of the Body from simply leaving a meeting without taking the necessary actions to properly dispense with or to postpone pending agenda items.[120] In addition, formal adjournment will notify attendees that no further business will be undertaken by the Body.

For most meetings, the Body will conclude all items on the agenda, and the Presiding Officer will unilaterally declare the meeting adjourned. Unilaterally declaring a meeting adjourned is within the discretion of the Presiding Officer (see Rule 3.4). Absent a Point of Appeal to challenge the Presiding Officer's decision to adjourn, the meeting will stand adjourned without need for a formal Motion to Adjourn.[121]

However, in the event a majority of the Body seeks to end the meeting, the Motion to Adjourn is available.

Some procedural rules of order recognize a Motion to Adjourn as a privileged motion. Because a privileged motion is in order at any time, classifying a Motion to Adjourn as privileged would allow a majority of the Body to adjourn and leave the meeting without dispensing with a matter under discussion or debate and without properly postponing upcoming agenda items. Allowing the Body to walk away from pending discussion or debate is problematic in the setting of a local government meeting, particularly during a quasi-judicial hearing.

Bob's Rules of Order recognizes the Motion to Adjourn as a main motion. Categorizing the Motion to Adjourn as a main motion requires that there be no pending motion on the Floor. This prevents the Body from leaving the meeting without addressing pending motions and provides the opportunity for the Body to consider postponing items scheduled on the agenda before entertaining a Motion to Adjourn. The Motion to Adjourn is debatable.

Caution should be exercised when moving to adjourn when agenda items remain pending on the agenda for which required public notice was issued (such as a public-hearing publication or posting of property). Adjourning a meeting that was preceded by published notice of the hearing must be properly continued to a future date by a Motion to Continue or Postpone. Otherwise, an adjournment without a proper postponement may require that new notice be published and/or posted as may be required. The Body's legal counsel should be consulted to ensure that a Motion to Adjourn made before the conclusion of scheduled agenda items is handled in the most efficient manner.

A Motion to Adjourn is not subject to a Motion to Amend or a Friendly Amendment. Proposed amendments almost invariably pertain to delaying the adjournment to a time following the handling of an open or an upcoming item on the agenda. For example, a Member may propose to amend the Motion to Adjourn to state that it will be "effective upon the conclusion of the current agenda item." Such an amendment is unnecessary and cumbersome in the sense that the Motion to Adjourn would be timely and most appropriate when the current agenda item is concluded.

The Motion in Practice

As an example of a Motion to Adjourn at the conclusion of the meeting agenda, such motion in practice might follow the following discussion:

Presiding Officer:	"We have reached the end of our agenda, but I have three matters I would like to discuss with the Board of Trustees."
Member A:	[requests and is provided the Floor] "It is now 10:00 p.m. and we have addressed all the items on our agenda. I move to adjourn this meeting."
Member B:	"Second."
Presiding Officer:	"A Motion to Adjourn is debatable. Does anyone wish to speak to the motion? Seeing none, would the clerk please call the vote?"

[A majority of the quorum votes to approve the motion.]

Presiding Officer: "This meeting is adjourned. Thank you."

As an example of a Motion to Adjourn where the agenda includes items remaining to be addressed, the dialogue may include:

Background: No motion is pending, and Member A has the Floor.

Member A: "I move to adjourn."

Member B: "Second."

Presiding Officer: "Before I acknowledge the Motion to Adjourn, I will pose a Point of Information.[122] I ask the Town Attorney to advise us on the effect of the proposed adjournment when we have agenda items pending and one is a public hearing. Will the Town Attorney provide an opinion on what steps we need to take before adjourning?"

Body's Attorney: "We have three items remaining on the agenda, and one is a public hearing for which special notice was published. If the Body adjourns without properly postponing the public hearing to a specific date, time, and place, we will need to publish new notice. So, there are several different processes available:

"First, we need to resolve the Motion to Adjourn. Because it is a main motion, we are unable to entertain a Motion to Postpone because it also is a main motion and requires that no other motion be on the Floor.

"One option is for the Presiding Officer to ask Member A to withdraw the Motion to Adjourn because it is not yet on the Floor.[123]

"Another option is for the Presiding Officer to acknowledge the Motion to Adjourn as properly on the Floor and then propose a Friendly Withdrawal of the motion.

"If a voluntary withdrawal or a Friendly Withdrawal cannot be achieved, the Body will need to vote on the Motion to Adjourn.

"If the motion is either withdrawn or rejected by a vote, the Body can then entertain a Motion to Postpone the public hearing and all other agenda items to our next scheduled meeting. Once everything is properly postponed to a specific date, the Body can entertain a new Motion to Adjourn.

"Obviously, if a majority of the Body does not wish to adjourn and instead desires to continue the meeting, any proposed Motion to Postpone will fail."

Presiding Officer: "Thank you. I will ask Member A to withdraw the Motion to Adjourn since it is not yet on the Floor."

Member A: "I will withdraw the Motion to Adjourn."

Presiding Officer: "Thank you, Member A. I will move to postpone[124] all items remaining on our agenda, and I will specifically mention Item 9, which is a public hearing on an application to rezone the Pedersen

Property, to our next regular meeting, which is December 8, 2026, at 6:30 p.m. here in the City Council Chambers at 123 Main Street.

"I will speak to my motion. If you are inclined to have us adjourn the meeting at this time, I would suggest you vote to approve the Motion to Postpone. If the motion is successful with a majority vote, then no items will remain on the agenda, and I can declare the meeting adjourned without the need for a formal motion. Would anyone wish to debate the Motion to Postpone? Seeing none, I will call for the vote."

[The Motion to Postpone is approved by a majority vote.]

Presiding Officer: "The Motion to Postpone is approved. Because we have no further business on our agenda, I will declare this meeting adjourned."

CHAPTER 7
EXECUTIVE SESSION

22.0 Motion for an Executive Session

Purpose

The purpose of a Motion for an Executive Session is to take advantage of the statutorily authorized privilege of convening in a confidential meeting for the discussion of limited matters authorized by the Colorado Open Meetings Law, C.R.S. § 24-6-402(4).

Requirements and Limitations

Type of Action	Privileged motion
When in Order?	Any time
Floor Required?	Yes
Second Required?	Yes
Debatable?	No
Subject to Motion to Amend? Friendly Amendment Possible?	No No
Vote Required?	Two-thirds (2/3) of the quorum
Subject to Motion to Reconsider?	No

Commentary

Executive sessions are expressly permitted by state law to allow the Body to discuss certain topics in a closed non-public and confidential setting. State law recognizes that the public disclosure of certain confidential information may harm the public interest, impair the rights of employees, undermine the security of the public, or place the government at a disadvantage in negotiations and in potential or ongoing litigation matters.

The Motion for an Executive Session is perhaps the most challenging of motions. The motion requires careful consideration and oftentimes advance preparation of the motion's language. This is necessary in order to meet the statutory mandate that the motion include (a) a citation to the specific statutory subsection of the Colorado Revised Statutes which authorizes the session[125] and (b) identification of the particular matter to be discussed in as much detail as possible without compromising the purpose of the executive session.[126] Local charters, ordinances, and policies may also impose additional limitations and requirements on the Body's ability to hold an executive session.

Before acknowledging a Motion for Executive Session in accordance with Rule 5.4, the Presiding Officer should carefully consider whether the form of the motion meets the requirements for a Motion for an Executive Session. It is a wise practice to prepare the motion in advance of the meeting with the assistance of local legal counsel or to confirm with legal counsel during the meeting that a proposed motion is satisfactory.

Errors in the form of the motion *may* result in any confidential information discussed in the session becoming subject to public disclosure, and this disclosure may harm the government's interests. It is strongly advised that legal counsel be consulted on the form and language of the motion and that a script or checklist be prepared to help ensure all required procedures are followed.

The most common types of executive sessions for Colorado local government that are authorized by the Colorado Open Meetings Law[127] include the following sessions:

(a) Purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest—except that no executive session shall be held for the purpose of concealing the fact that a Member of the local public Body has a personal interest in such purchase, acquisition, lease, transfer, or sale.[128]

(b) Conferences with an attorney for the local public Body for the purposes of receiving legal advice on specific legal questions. The mere presence or participation of an attorney at an executive session of the local public Body is not sufficient to qualify the executive session as a session involving legal advice.[129]

(c) Matters required to be kept confidential by federal or state law or rules and regulations. The Body shall announce the specific citation of the statutes or rules that are the basis for such confidentiality before holding the executive session.[130]

(d) Specialized details of security arrangements or investigations, including defenses against terrorism, both domestic and foreign, and including where disclosure of the matters discussed might reveal information that could be used for the purpose of committing, or avoiding prosecution for, a violation of the law.[131]

(e) Determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators.[132]

(f) Personnel matters except if the employee who is the subject of the session has requested an open meeting or if the personnel matter involves more than one employee and all of the employees have requested an open meeting.[133] However, an executive session cannot be held to discuss:

    (i) an elected official or an appointed Member of the Body;[134] or

(ii) the appointment of a person to fill an appointed[135] or elective office; or

(iii) personnel policies that do not require the discussion of matters personal to particular employees.[136]

(g) Consideration of any documents protected by the mandatory nondisclosure provisions of the Colorado Open Records Act[137]—except that all consideration of documents or records that are work product as defined in C.R.S. § 24-72-202 or that are subject to the governmental or deliberative process privilege shall occur in a public meeting unless an executive session is otherwise allowed pursuant to state law.

Again, local charters, ordinances, and policies may limit the availability of these executive sessions or impose additional limitations and requirements on the Body's ability to hold an executive session. While other executive session purposes are authorized by state law, they may be less common or not applicable for local government.

The *Rules of Order* does not permit debate on the Motion for an Executive Session. The purpose of this limitation on debate is to avoid the potential disclosure of confidential information. If debate were permitted, it would often be challenging to publicly identify "why" the executive session is needed without risking disclosure by a Member of confidential information. Because, in practice, the need for an executive session and its justifications are typically vetted and established by legal and administrative staff before the meeting and the purpose for the executive session is generally known to the Presiding Officer (and often the Members), executive session motions do not commonly receive questions from the Body. As a result, a blanket prohibition on debate is reasonable. In a rare instance when a Member is uncertain about the reason for an executive session, a request to the Presiding Officer to call a recess may be in order to allow the Member to consult with the Presiding Officer, administrative staff, or the Body's legal counsel.

Critically important is that a supermajority of two-thirds of the quorum is required for approval of an executive session motion pursuant to the Colorado Open Meetings Law. An error in the vote may result in the content and discussion of the executive session becoming public[138] and the award of court costs and reasonable attorney's fees.[139]

Confusion sometimes arises upon the effect of a failure of the Motion for Executive Session to receive the necessary vote. A Motion for Executive Session is a proposal to enter a non-public setting to discuss a limited and statutorily authorized subject or topic. The failure of the motion to secure the necessary two-thirds vote of a quorum merely rejects the requested opportunity to hold the discussion in a non-public setting. The motion's rejection does not mandate that the local government discuss the subject or topic in a public setting. The local government is entitled to forgo or abandon the discussion altogether. If the agenda includes a reference to a planned executive session, upon the failure of the motion, it would be in order for the Presiding Officer to move to the next agenda item. See Rules 1.2 and 3.4.

Additionally, the rejection of a Motion for Executive Session is not a decision by the Body to waive any right to privilege or confidentiality that protects the information associated with the proposed session. As a rule, a waiver of privilege requires a *knowing* waiver by the Body,[140] and, because the Body is unaware of the specific information to be presented in the executive session, the Body lacks the requisite knowledge for an effective waiver.

CHAPTER 8

APPOINTMENT & ELECTION PROCESSES

From time to time, the appointment or election of either a Member of the Body or another person to a position of service to the local government is necessary or desired. This chapter offers procedures to aid the Body when making appointments or conducting elections in a fair, consistent, and effective manner.

23.0 Simple Appointment

Many appointments of Members or others to serve on committees, subcommittees, or in other positions of service to the Body or the government are not complicated. These uncomplicated appointments do not necessitate a formal process. For example, the Body may seek to appoint one of its Members or another person to serve on the local open space and trails committee or to act as the government's liaison with the local school district. When only one person seeks the appointment and there exists a consensus that the appointment is acceptable to the Body, a formal selection process is unwarranted.

The Body is authorized by the *Rules of Order* to forgo a formal nomination and election process when the Presiding Officer decides that there exists no competition or disagreement for an appointment. Simple appointment by a motion or an informal action will advance efficiency.

24.0 Formal Nomination & Election – Single Position

Local governments often find it necessary to formally elect a Member or another person to serve in a specific role within the Body or to serve on a board, commission, committee, subcommittee, or in another capacity. A formal process will advance fairness, especially where two or more persons seek the position. As examples, a municipal governing body may need to elect one of its Members to serve as the mayor, president, or mayor pro tem. A Body may also need to elect a Member to serve on a committee or subcommittee of the Body. A board of county commissioners may need to appoint the board chairperson or vice chairperson. A planning commission may need to elect from among its membership a person to serve as the chairperson or vice chairperson. A citizen may seek the Body's appointment to serve on a formally constituted board or commission.

Where two or more persons seek an available position, simple appointment pursuant to Section 23.0 is unavailable, and a formal election of a person to serve in that position may be necessary. Instead, Section 24.0 provides for a process for formal election in the event that two or more persons seek to fill a single available position.

Election Process

A. Generally

The following procedure shall apply to the Body's election of a person to serve in a special capacity on the Body or in a position on another body.

The process for the election shall be conducted during a regular or special meeting of the Body at which a quorum exists unless the bylaws or other governing policy of the Body provide for another process or procedure.

B. Determination of Process

1. Regular Process. The nomination and election process of Section 24.0 shall be followed unless the Body approves an alternative process.

2. Alternative Process. The Presiding Officer or another Member may offer a Principal Motion to the Body proposing the use of a process other than the process provided by Section 24.0. In order for the Principal Motion to be stated in clear and understandable language as required by Rule 5.2, the Moving Member shall provide to the Body in advance of the meeting a written process detailing the steps to be followed for the proposed alternative election process. The offered Principal Motion shall require a second and is debatable. See Section 15.0, Principal Motion.

The Body may, by a majority vote of a quorum on the Principal Motion (as it may be amended), require the use of the proposed alternative process. In such an event, the process for nominations and election provided by Section 24.0 will be modified as needed to comply with the Body-approved alternative election process.

C. **Nominations**

1. Nomination Required. To be eligible, a person seeking to fill a position must be nominated by a Member. If the position is available to be filled by a Member, a Member may nominate themselves.

2. Written Nominations. Nominations may be submitted in writing (which includes electronic mail and text messaging) to the Presiding Officer prior to the meeting at which nominations will be offered and accepted.

3. Nominations from the Floor. At the meeting, the Presiding Officer shall announce a call for nominations from the Floor.

4. Closing and Announcement. Upon a determination by the Presiding Officer that no further nominations are offered, the Presiding Officer shall announce that the opportunity for

nominations is closed. The Presiding Officer shall announce the name of each person who was nominated from the Floor and the name of any person for whom a written nomination was received prior to the meeting.

5. Acceptance of Nomination.

(a) For Positions of Leadership

Where the position to be filled is one of leadership[141] on the Body, the Presiding Officer shall obtain an acceptance of the nomination from each nominee to avoid the election of a Member unwilling to serve. Members expecting to be nominated but who will be absent from the meeting at which nominations will be offered must inform the Presiding Officer prior to the meeting of their willingness to accept a nomination for leadership in the event they are nominated. A Member who does not affirmatively express an acceptance of a nomination for leadership shall be deemed unwilling to serve if nominated and shall be excluded from candidacy in the election.

(b) For All Other Positions

To avoid election of a person unwilling to serve, the acceptance of a nomination is desired. The Presiding Officer shall endeavor to obtain an acceptance of the nomination by each person nominated. When the nominee is present, a simple verbal inquiry and confirmation of acceptance is sufficient. For absent nominees, acceptance may be expressed by a confirmation from the nominating Member that the nominee agreed to serve if elected, or written acceptance of a nomination from the nominee may be accepted. The Presiding Officer is authorized to forgo a need for a formal acceptance of a nomination where there is an understanding or expectation by the Body that the nominee will serve if elected.

6. Nomination of Presiding Officer. In the event that the Presiding Officer is nominated and accepts the nomination, the Presiding Officer shall temporarily relinquish the position as Presiding Officer to another Member in accordance with the Body's bylaws or other established policy.

D. Election

1. Selection of a Single Nominee. Should only one person be nominated for the available position, the Presiding Officer shall declare without vote that the nominated person is elected. The Presiding Officer's declaration is subject to a Point of Appeal. All Members of the Body, including any nominated Member, may vote on the Point of Appeal. Upon successful appeal by a majority of the Body, the appeal will require that a vote be conducted in order to elect the nominee.

2. Election from Multiple Nominees. In the event that two or more persons are nominated for one available position, an election from among the nominees shall be conducted.

3. Option for Nominee Statements. Prior to the casting of votes, the Presiding Officer may offer an opportunity to each nominee to provide a brief statement as to the nominee's qualifications for and interest in the position. In the interest of efficiency, the Presiding Officer may forgo the opportunity for statements or may set a uniform limit on

the duration of each nominee's statement. Nominees absent from the meeting may prepare a statement in advance and may request that a person in attendance read the nominee's statement if an opportunity for statements is offered and provided that the statement can be read within any time limitations set by the Presiding Officer.

4. Process for Election. The Presiding Officer shall call for each Member's vote for a nominee.

   (a) For a leadership[142] position of the Body, the Presiding Officer may direct that the votes be cast by written secret ballot.[143] The Presiding Officer's direction is subject to a Point of Appeal. A Member who is a nominee may vote.

   (b) For all other positions, election shall be by any method acceptable to the Body that will allow the identity of the Member and the vote cast by each Member to be publicly known.[144] A Member who is a nominee may vote.

5. Counting of Votes. The Presiding Officer or an administrative staff person shall be responsible for counting and publicly announcing the results of all voting. The Presiding Officer may appoint an administrative staff person to assist in verifying the accuracy of the vote. A vote cast for any person other than a nominee shall be invalid and not counted.

6. Election Outcome. Based on the number of nominees and the resulting vote, the following determination and process shall be applied:

   (a) Election Between Two (2) Nominees – The nominee receiving the greater number of votes shall be declared elected. In the event of a tie vote between the two nominees, the Presiding Officer or administrative staff person shall conduct a drawing from among the names of the two nominees. The drawn nominee shall be declared elected.

(b) Between Three (3) or More Nominees – Should only one nominee receive the highest number of votes, the nominee shall be declared elected.

In the event that two or more nominees receive both the highest and the same number of votes (a tie vote), a revote shall be conducted from among the tied nominees only. Should only one nominee receive the highest number of votes, the nominee shall be declared elected. If upon revoting two or more nominees remain tied for the highest number of votes, the Presiding Officer or administrative staff person shall conduct a drawing from the names of the tied nominees, and the drawn nominee shall be declared elected.

25.0 Formal Nomination & Election - Multiple Positions

Local governments often encounter the need to fill multiple positions at one time on a single board, committee, subcommittee, or other Body. Multiple positions may arise, for example, with the initial creation of a committee or subcommittee or the need to fill positions created by the resignation of two Members of an existing committee. Individually filling each open position one at a time through the formal nomination and election process of Section 24.0 may be less efficient than filling the positions at one time from among a slate of nominees.

This section provides a process to fill multiple positions at one time.

Election Process

A. Generally

The following procedure shall apply for the election of two or more persons to fill two or more available positions on the Body, a committee, or subcommittee or to serve in appointed or representative positions on another Body.

The process for the election of persons shall be conducted during a regular or special meeting of the Body at which a quorum exists unless the bylaws or other governing policy of the Body provide for another process or procedure.

B. Determination of Process

1. Presiding Officer's Direction. Where multiple positions on a Body are to be filled at the same time, the Presiding Officer is authorized to direct the Body to follow the nomination and election process of Section 24.0[145] (filling each position individually) or Section 25.0 (filling multiple positions concurrently).

2. Alternative Process. A Member may offer a Principal Motion to the Body proposing the use of a process other than the process directed by the Presiding Officer. In order for the motion to be stated in clear and understandable language as required by Rule 5.2, the Moving Member shall provide to the Body in advance of the meeting a written process detailing the steps to be followed for the alternative selection process. The Principal Motion shall require a second and is debatable. See Section 15.0, Principal Motion.

   The Body may, by majority vote on the Principal Motion (as it may be amended), require the use of the proposed alternative process. In such an event, the process for nominations and selection or election provided by Section 25.0 will be modified as needed to comply with the Body-approved alternative selection process.

C. Nominations and Acceptance

Nominations and the acceptance of nominations shall follow the process provided by Section 24.0(C)(1) through (6) unless an alternative nomination process is approved by the Body.

D. Election

1. Nominees for Less than or Equaling the Number of Positions. Where the number of nominees is less than or equal to the number of available positions, the Presiding Officer shall declare without vote that the nominated members are all elected for the available positions. The Presiding Officer's declaration is subject to a Point of Appeal. All Members of the Body, including any nominees who are also Members, shall vote on any Point of Appeal. If a majority of a quorum voting on the appeal rejects the Presiding Officer's declaration, the election to the positions shall be addressed by filling each position individually in accordance with Section 24.0.

2. Election from Among More Nominees than Positions. If there are more nominations than available positions, an election from among all nominees shall be held. The Presiding Officer shall call, or shall direct an administrative staff person to call, for each Member's vote for nominees.

   When voting, each voting Member shall cast a vote by a written ballot identifying those nominees the Member desires to fill the number of open positions. The written ballot must include:

(a) at the top of the written ballot, the name of the Member casting the vote on the ballot; and

(b) the names of the persons the Member seeks to elect to available positions.

A Member who is also a nominee may vote and may vote for themselves. A Member need not cast a vote for a number of persons equal to the available number of positions. However, a ballot failing to identify the name of the Member voting or a ballot identifying a person other than a nominee or identifying a greater number of persons to be elected than available positions shall be declared invalid, and the vote of such a ballot shall not be counted.

3. Counting of Votes. The Presiding Officer or an administrative staff person shall be responsible for counting the votes on each ballot and publicly announcing the results of all voting. The Presiding Officer may appoint an administrative staff person to assist in verifying the accuracy of the vote.

   All ballots shall be available for inspection by each Member of the Body and shall be a public record subject to inspection upon request.

4. Election Outcome. Based on the number of nominees, the number of available positions to be filled, and the resulting vote, the following process and determination shall apply:

   (a) Where the votes cast identify that the number of available positions can be filled by the persons receiving the highest number of votes, then the Presiding Officer or administrative staff person shall announce the names of the persons elected to the available positions. For example:

Three (3) available positions are to be filled from among six (6) nominees. The voting outcome is:

Jones	**6**	**Elected**
Garcia	**5**	**Elected**
Smith	**5**	**Elected**
Johnson	4	Not Elected
Williams	1	Not Elected
Brown	0	Not Elected

(b) Where the votes cast identify that one or more of the available positions can be filled by one or more of the persons receiving the highest number of votes but a tie vote prevents a determination that all positions can be filled, the Presiding Officer or administrative staff person shall announce the names of the persons receiving the highest number of votes, who shall each be declared elected to an available position. A revote shall then be conducted from among all other remaining nominees for the position(s) that remain unfilled. Such a revoting process shall continue until a determination can be made that all available positions can be filled by persons receiving the highest number of votes. For example:

Three (3) available positions are to be filled from among six (6) nominees. The voting outcome is:

Jones	6	**Elected**
Garcia	5	**Elected**
Smith	4	Revote
Johnson	4	Revote
Williams	2	Revote
Brown	0	Revote

If the revote identifies that the remaining available positions can be filled with a nominee or nominees receiving the highest number of votes, the nominee or nominees receiving the highest number of votes shall be declared elected to the remaining positions. For example:

Following the election of Jones and Garcia above, one (1) available position remains. A revote from among the four (4) remaining nominees is held and results in election to the remaining position:

Smith	5	**Elected**
Johnson	3	Not Elected
Williams	2	Not Elected
Brown	0	Not Elected

If revoting fails to result in the election of the needed number of nominees for the available positions due to tie votes, the Presiding Officer may continue with a new revote from among the remaining nominees, proceed to a revote from among those nominees who each received the highest but same number of votes, or conduct a drawing from the names of the tied nominees, with the drawn nominee(s) being declared elected.

ADDITIONAL INFORMATION

Expert Advisors

I extend my sincere appreciation to the following exceptional people who assisted in the perspective, review, and editing of *Bob's Rules of Order*. They are each widely respected as recognized experts in local government law. I owe a debt to each of them, not only for their assistance with these *Rules of Order* but also for their long-standing support of Colorado local government.

David Broadwell

David Broadwell served Colorado municipalities for over 40 years, starting as a planner in Glenwood Springs in 1982. He was appointed as Glenwood's first full-time City Attorney from 1984 until 1992, when he moved to the Arvada City Attorney's office. He was a Colorado Municipal League (CML) staff attorney from 1992 to 1999 before joining the City and County of Denver as chief legal advisor to the Denver City Council. He is the principal author of *TABOR: A Guide to the Taxpayer's Bill of Rights* (1999) and contributed to numerous other CML publications while at CML. During his career, Mr. Broadwell was a frequent speaker on topics of interest to local government attorneys and officials, and between 1993 and 2015 he authored the chapter on local government law for the *Annual Survey of Colorado Law*, published by Continuing Legal Education in Colorado, Inc. In 2002, Mr. Broadwell received the Award for Distinguished Public Service by a Local Government Attorney from the International Municipal Law Association, and, in 2020, IMLA honored Mr. Broadwell with the Burk E. Delventhal Legal Advocacy Award. He re-joined the CML as General Counsel in 2019, where he served until his retirement in 2022.

Gerald Dahl

Gerald (Jerry) Dahl is a member of the Lakewood law firm of Murray Dahl Beery & Renaud LLP. Mr. Dahl serves as Town Attorney for Georgetown and Poncha Springs and City Attorney for Wheat Ridge, Colorado. A former General Counsel to the Northwest Colorado Council of Governments and the Colorado Municipal League, Mr. Dahl maintains a statewide practice in local government law, with particular expertise in annexation, land use, and elected official procedures. Mr. Dahl has mentored and supported innumerable Colorado local government attorneys throughout his career. Mr. Dahl can be reached at gdahl@mdbrlaw.com.

Sam Light

Sam Light is General Counsel for the Colorado Intergovernmental Risk Sharing Agency (CIRSA), a public entity self-insurance pool that provides property, liability, and workers' compensation insurance for Colorado cities, towns, and affiliated public entities. Prior to joining CIRSA in 2018, Mr. Light served in private practice with the Denver firm of Light Kelly P.C., where he practiced for over 20 years in the areas of municipal and public entity law and government liability and insurance issues. He served as General and Special Counsel to home rule and statutory municipalities and other public entities throughout Colorado and is a past president of the Colorado Municipal League Municipal Attorneys Section and the Metro City Attorneys Association. Mr. Light frequently provides training for local government elected and appointed officials and staff and frequently speaks at conferences on public entity risk management and related topics. He is the author of numerous articles, papers, and presentations on legal and risk-management issues affecting public entities, and he is a co-author and editor of CIRSA's *Ethics, Liability and Best Practices Handbook for Elected Officials*, which was awarded a national 2020 Outstanding Achievement Award by the Public Risk Management Association. Mr. Light can be reached at saml@cirsa.org.

Wynetta Massey

A native of Independence, Missouri, Wynetta Massey holds bachelor's degrees from the University of Missouri-Columbia in speech communication (with honors) and political science and graduated from the University of Kansas School of Law. She accepted a position with the Colorado Springs City Attorney's Office in 1990 and has served as Colorado Springs' City Attorney and Chief Legal Officer since 2014. Ms. Massey is a national speaker on a variety of municipal law topics, including ethics, land use, marijuana regulation, and the Council-Mayor form of government, and has published articles in *The Municipal Lawyer* and *The Kansas Municipal Law Annual*. She advances the practice of municipal law through the Colorado Municipal League (CML) and the International Municipal Lawyers Association (IMLA), serving on the executive boards of both organizations. Ms. Massey has chaired CML's Budget, Audit, and Management Committee, the *Amicus* Committee, and the Attorney's Section. She is a recipient of the IMLA *Amicus* Service Award and the James H. Epps Longevity in Service to a Community Award. Ms. Massey is also an IMLA Local Government Fellow and a nationally recognized expert in local government law. Ms. Massey may be reached at Wynetta.massey@coloradosprings.gov.

Robert Sheesley

Robert Sheesley serves as General Counsel to the Colorado Municipal League (CML), where he supports and advises CML's municipal and associate members on the ever-changing laws affecting local government interests. Mr. Sheesley previously served as the City

Attorney for Commerce City, Colorado, and in the City Attorney's Office for the City of New Orleans. Before practicing municipal law, Mr. Sheesley practiced in the areas of commercial litigation and employment law in New Orleans and Jacksonville, Florida. A graduate of Loyola University New Orleans, Mr. Sheesley received his J.D. from the University of Florida College of Law and his M.P.A. from the University of Colorado Denver. Mr. Sheesley can be reached at rsheesley@cml.org.

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An untold number of people played important roles during the last three decades in what is now *Bob's Rules of Order*. These people include mayors, governing body members, city and town managers and clerks, and seminar and conference attendees posing intriguing questions about parliamentary procedure.

Most notable among the local governments that assisted in *Bob's Rules* is the City of Centennial, Colorado. Incorporated in 2001 as one of Colorado's largest municipalities, Centennial strives to innovate and to create efficient processes and procedures in delivering services to its citizens. *Bob's Rules* is in large part premised on the meeting practices supported by Mayors Randy Pye, Cathy Noon, and Stephanie Piko and the truly exceptional city council members, city managers, and administrative staff that successfully led Centennial for more than 20 years. I owe to the City of Centennial my sincere and deepest appreciation.

My gratitude extends to the local government attorneys of Widner Juran LLP. Maureen Juran, Jill Hassman, Chris Price, Jennifer Madsen, and Molly Schultz each ably aided in the preparation of *Bob's Rules* with their exceptional insight, research, editing, and answers to my never-ending stream of questions about local government meeting procedures. You will not find a more experienced group of attorneys who are more devoted to the interests of Colorado local government. And I am proud to say that they are loyal friends.

The Colorado Municipal League (CML) also contributed to *Bob's Rules of Order*. During my entire career under the leadership of Kevin Bommer, Sam Mamet, and Ken Bueche, CML provided me with invaluable knowledge about local government and allowed me

a forum to share my knowledge on local government topics and to present my ideas concerning effective public meetings.

Finally, and most deservingly, I extend my appreciation to my wife, Betsy, for her unwavering support of my passion and commitment to local government. Without her encouragement, *Bob's Rules of Order* would remain merely a pile of notes I collected throughout my career.

Notwithstanding everyone's exceptionally helpful aid and input, any error or deficiency in *Bob's Rules of Order* shall remain entirely my responsibility.

Bob Widner

ABOUT THE AUTHOR

Robert (Bob) Widner dedicated more than three decades to the representation of local governments through service as the city attorney, town attorney, county attorney, or special counsel for communities throughout Colorado. Bob's dedication to local government interests is demonstrated by his longstanding membership through statewide election to the Executive Board of the Colorado Municipal League (CML) and his election to lead CML as Board President.

Bob is the 2020 recipient of the Marvin J. Glink Private Practice Local Government Attorney Award conferred by the International Municipal Lawyers Association (IMLA). IMLA confers the award upon one attorney who best exemplifies excellence in the practice of municipal law and outstanding service to the public, has an exemplary reputation in the legal community, and exhibits a devotion to mentoring and educating young lawyers in local government law. Bob is one of fewer than 150 attorneys to receive an IMLA Fellowship as a recognized municipal law expert. As an adjunct professor of law with the University of Colorado Law School, Bob imparted his passion for local government and land-use law to students who now serve communities throughout the United States.

After fifteen years as an associate and a partner with the Denver law firm of Gorsuch Kirgis LLP, Bob founded the law firm of Widner Juran LLP in 2004. Widner Juran LLP exclusively represents the interests of Colorado local governments. Today, Bob continues his service as general and special counsel to Widner Juran's local government clients. Since 2004, Bob has served as the City Attorney for the City of Centennial, one of Colorado's larger municipalities and a nationally recognized leader in local government efficiency, effectiveness, and innovation. Bob is a frequent conference speaker and author of numerous publications and articles advancing the interests of local government.

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APPENDICES

Appendix A

Sample Form of Resolution for Adoption of *Bob's Rules of Order*

RESOLUTION NO. *XXX*

A RESOLUTION ADOPTING RULES OF ORDER FOR THE [*Name of Body*]

WHEREAS, the City of Somewhere is authorized to adopt procedures to govern the conduct of meetings and rules governing the decision-making process.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF SOMEWHERE, COLORADO, AS FOLLOWS:

Section 1. The [*Name of Body authorized to adopt rules*] for the City of Somewhere hereby adopts as the rules of order governing meetings of the [*Name of Body*] the publication *Bob's Rules of Order for Colorado Local Governments* (Robert Widner, 2023 edition), with the following deletions or modifications:

Rule ___ is deleted in its entirety; and

Rule ___ is amended to provide that [*identify the rule change*].

Section 2. Effective Date. This Resolution shall take effect upon its approval by the [*Name of Body authorized to adopt rules*].

ADOPTED by a vote of ___ in favor and ___ against this ____ day of _________, 20__.

[*INSERT APPROVING BODY'S SIGNATURE BLOCK*]

APPENDIX B

Bob's Rules of Order

List of Rules for Reference

1.0 The Meeting Generally

Rule 1.1 Any state or local law that concerns the conduct of a meeting is a part of the *Rules of Order* to the extent the law is applicable to the Body.

Rule 1.2 The meeting agenda will be followed unless properly amended or modified.

Rule 1.3 The Body may presume that any legally required public notice for the meeting and for each agenda item was properly completed.

Rule 1.4 A Member shall disclose a conflict of interest and recuse themselves from both participation and voting when required by applicable state or local law.

Rule 1.5 A motion is not required for the Body to initiate discussion.

Rule 1.6 The record for each decision of the Body includes all information presented to the Body that pertains to the decision, all discussion and debate of the Body in reaching the decision, and all laws and local policies applicable to the decision.

Rule 1.7 The Body's decision on a matter is presumed to be supported by the record and by reasonable inferences drawn from the record.

Rule 1.8 A meeting formally ends only upon the Presiding Officer's declaration of adjournment without objection or upon the approval of a Motion to Adjourn.

2.0 The Quorum

Rule 2.1 A quorum of the Body is required for the Body to conduct business unless otherwise expressly provided by the Body's bylaws or the *Rules of Order*.

Rule 2.2 Unless otherwise provided by the Body's bylaws or other applicable law, a majority of the total membership of the Body who are present and eligible to vote shall constitute a quorum.

Rule 2.3 A request to be excused from the meeting while a motion is on the Floor, if granted, shall be effective:

- Upon the granting of the request if the excuse is due to a lawfully recognized conflict of interest; or
- Upon the granting of the request if the excused Member's absence will not deny the Body of a quorum; or
- Upon the final vote or other final resolution of the pending motion if the excused Member's absence will deny the Body of a quorum.

Rule 2.4 A Member's unexcused absence while a motion is on the Floor shall not affect the quorum until the final vote or other final resolution of the motion.

Rule 2.5 In the absence of a quorum, the Presiding Officer, the Members present, or an administrative staff member shall:

- Postpone all unresolved agenda items to the next regular meeting; and
- Adjourn the meeting.

3.0 The Presiding Officer

Rule 3.1 The Presiding Officer shall be the exclusive director and facilitator of all meeting conduct.

Rule 3.2 The Presiding Officer serves as the parliamentarian unless the role is assigned to another person.

Rule 3.3 The Presiding Officer is entitled to the same rights as a Member unless otherwise limited by law.

Rule 3.4 The Presiding Officer may exercise discretion during the meeting subject to a Point of Order or a Point of Appeal.

Rule 3.5 The Presiding Officer shall facilitate the meeting in a fair and neutral manner and, whenever practicable, defer to the Members to initially lead discussion, offer motions, and direct debate.

4.0 The Floor

Rule 4.1 The Floor is required to address the Body.

Rule 4.2 A Member shall be granted the Floor by the Presiding Officer when properly requested in accordance with the *Rules* and local meeting practice.

Rule 4.3 A Member's right to the Floor is limited to five minutes.

Rule 4.4 A Member may obtain the Floor only once until all other Members are afforded an opportunity to obtain the Floor.

5.0 The Motion & Second

Rule 5.1 A motion is required for the Body to take formal action.

Rule 5.2 A motion shall propose an affirmative proposition in clear and understandable language that is limited to either a "yes" or a "no" vote.

Rule 5.3 A motion requires a second.

Rule 5.4 To be placed on the Floor for the Body's consideration, the Presiding Officer must acknowledge that the motion was properly stated and seconded in accordance with Rules 5.2 and 5.3.

Rule 5.5 A motion, once acknowledged by the Presiding Officer and placed on the Floor, is owned by the Body.

Rule 5.6 The Presiding Officer shall offer the Moving Member the first opportunity to speak to a debatable motion.

6.0 The Friendly Requests

Rule 6.1 A Friendly Amendment is authorized only for a debatable motion, and the amendment of the motion will be effective unless a Member objects.

Rule 6.2 A Friendly Withdrawal is authorized only for a debatable motion, and the withdrawal of the motion will be effective unless a Member objects.

7.0 The Vote

Rule 7.1 The Presiding Officer's call for the vote closes the Floor.

Rule 7.2 Proxy or absentee voting is not permitted.

Rule 7.3 A Member's attempt to explain their vote after the call for the vote is not permitted.

Rule 7.4 Neither the Moving Member nor the Member offering a second on a motion must advocate for or vote in favor of the motion.

Rule 7.5 Each Member eligible to vote on a motion shall vote either "yes" or "no."

Rule 7.6 The approval of a motion requires a vote of a majority of a quorum unless a greater number of votes is required by the *Rules of Order* or by law.

Rule 7.7 The approval of a motion by the required vote shall decisively approve the motion's proposition or question.

Rule 7.8 The failure of a motion to receive the required vote for approval shall result in the rejection of the motion.

Rule 7.9 A Member shall not change their vote after the announcement of the final vote except in exceptional circumstances with the approval of the Presiding Officer.

8.0 Rule Suspension and Rule Deviation

Rule 8.1 The Presiding Officer may suspend certain rules.

Rule 8.2 The Body may suspend certain rules.

Rule 8.3 An inadvertent and non-substantive deviation from a rule by the Presiding Officer or the Body without objection from a Member is authorized and intended.

10.0 Points Generally

Rule 10.1 A point is privileged and may be raised at any time.

Rule 10.2 A point does not require the Floor.

Rule 10.3 A point does not require a second.

14.0 Motions Generally

Rule 14.1 A main motion is only in order when no other motion is on the Floor.

Rule 14.2 A debatable motion may be amended by either:

- A Friendly Amendment pursuant to Rule 6.1; or
- A Motion to Amend.

Rule 14.3 Only one Motion to Amend may be on the Floor at any one time.

APPENDIX C

Bob's Rules of Order

Summary Table of Points and Motions

TYPE	MOTION	FLOOR?	WHEN IN ORDER?	SECOND?	DEBATABLE?	VOTE?
POINT	**Order**	No	Any time	No	No	No
POINT	**Information**	No	Any time	No	No	No
POINT	**Appeal**	No	Immediately following Presiding Officer's decision	No	No	Majority of quorum
MAIN	**Principal Motion**	Yes	When no motion is pending	Yes	Yes	Majority of quorum usually but may depend on special law. Rule 7.6
MAIN	**Reconsider**	Yes	When no motion is pending but with limited availability. Section 19	Yes	Yes, only as to the reason to reconsider	2/3 of quorum
MAIN	**Adjourn**	Yes	When no motion is pending	Yes	Yes	Majority of quorum

TYPE	MOTION	FLOOR?	WHEN IN ORDER?	SECOND?	DEBAT-ABLE?	VOTE?
MAIN	**Continue or Postpone**	Yes	When no motion is pending	Yes	Yes	Majority of quorum
SUBSIDIARY		Yes	When a Principal Motion is pending	Yes	Yes	Majority of quorum
	Amend a pending debatable motion	Yes	When a debatable motion is pending	Yes	Yes	Majority of quorum
	Close Debate	Yes	When a debatable motion is pending	Yes	No	2/3 of quorum
PRIVILEGED	**Recess**	Yes	Any time	Yes	No	Majority of quorum
	Executive Session	Yes	Any time	Yes	No	2/3 of quorum

ENDNOTES

1 Sometimes also referred to as "parliamentary rules" or "rules of procedure."

2 The term "parliamentary" when associated with rules is generally used today to describe rules that govern the decision-making process of deliberative bodies. The word originates from early medieval English to identify a legislative Body assembled by the British sovereign comprised of nobility, clergy, and commoners.

3 Henry M. Robert III et al., *Robert's Rules of Order Newly Revised,* 12th ed. (New York: Public Affairs, 2020). Within the endnotes of *Bob's Rules of Order*, the 12th edition of *Robert's Rules of Order Newly Revised* is abbreviated as "*RONR*."

4 To its credit, the publishers of *RONR* recognize the length and complexity of the rules and offer a 213-page *Robert's Rules of Order in Brief* (referred to herein as *In Brief*). On the inside cover of *In Brief*, the publishers caution that the *In Brief* edition serves as an introduction and guide to *RONR* and is only a "partial summary" that is not suitable for use as a body's parliamentary authority. See Henry M. Robert III et al., *Robert's Rules of Order Newly Revised in Brief*, 3rd ed. (New York: Public Affairs, 2020).

5 *RONR* includes 41 pages of a table of contents, preface, and introduction; 633 pages of principal text; 52 pages of charts, tables, and lists; a 14-page appendix; and a 63-page index, totaling 803 pages.

6 See *RONR*, Table of Rules Relating to Motions, at pages t6–t33.

7 Allen C. Jennings, *Robert's Rules for Dummies,* 4th ed. (New Jersey: John Wiley & Sons Inc., 2022).

8 Nancy Sylvester, *The Complete Idiot's Guide to Robert's Rules,* 2nd ed. (New York: Penguin, 2010) (published prior to the 12th edition of *RONR*).

9 Not surprisingly given the 803 pages and complexity of *RONR*, individuals seeking to gain a minimum or an advanced level of competence in *RONR* may pursue professional registration or certification. The National Association of Parliamentarians (NAP) offers credentialing processes that include testing of the individual's proficiency in the use of *RONR*. See https://www.parliamentarians.org. The American Institute of Parliamentarians (AIP) applies the *Standard Code of Parliamentary Procedure* (citation at footnote 14) in its credentialing processes, which also includes a testing process to achieve certification. See https://www.aipparl.org. Without doubt, requiring all members of a local governmental body to study, test, and gain a certified level of competency in the use of either *RONR* or the *Standard Code of Parliamentary Procedure* will aid the members in using these complex sets of meeting rules. Such a commitment of time, effort, and funding to learn rules more complex than needed for local government meetings may, however, be unwarranted for most governments.

10 Ann G. Macfarlane and Andrew L. Estep's *Mastering Council Meetings* (Seattle, ERGA, Inc. 2013) published by Jurassic Parliament offers a "guidebook for elected officials and local governments." The guidebook is not a complete set of rules of order. Instead, the guidebook seeks to assist readers in applying *RONR* to government meetings and conducting meetings "according to Robert." Because it is entirely based on *RONR*, the guidebook retains the deficiencies of *RONR* when applied to local government meetings and recognizes that quasi-judicial hearings are "outside the scope of the book." Although *Mastering*

Council Meetings is an entertaining stroll through *RONR*, the book cannot serve as a set of rules of order for local government bodies. *Mastering Council Meetings* is, however, recommended for its practical and useful ideas on the management of a public meeting.

11 The number of instances that *RONR* will conflict with the common needs of local government meetings are too many to summarize. Examples can be found in Chapter XX concerning Disciplinary Procedures, which authorizes the imposition of penalties against members who do not follow the provisions of *RONR*, including a censure or suspension or mandating an apology from a member and the exclusion of a member from a meeting until the member offers the apology. *RONR* § 61:15, page 611. *RONR* also authorizes the body to remove the mayor, chairperson, or other presiding officer as the director of the meeting. See Interpretive Rule 2006-02 at https://robertsrules.com/official-interpretations/#interpretations.

12 The formality imposed on meetings by *RONR* contributes to the sheer size of the volume of rules and the rules' complexity. As a few examples found at *RONR* §§ 3:10–3:13, pages 20–22, *RONR* limits the words that members may use when referring to the presiding officer and the other members of leadership, prohibits the use of the word "you" when referring to the presiding officer or other members except in limited circumstances, requires the presiding officer to refer to themselves in the third person, and prohibits members from using the names of other members. These, and other formal meeting mandates, make much of *RONR* inconsistent with the more casual or collaborative character of the typical local government meeting. *RONR* recognizes that a "small board" can abide by a few different and less formal rules than a larger body, such as allowing the presiding officer and

members to remain seated when addressing the body. However, *RONR* buries a few references to special rules for small boards throughout its text in random clauses and sentences, and some exceptions to the mandates of *RONR* can be found in a single one-half page section among the 803 total pages in Chapter XVI, § 49:21. With the very few exceptions for small boards, all other rules of *RONR* apply to a meeting of a small board.

13 By way of only one example, *RONR* authorizes the presiding officer to unilaterally expel any nonmember (i.e., a citizen) from a meeting because nonmembers hold no right to attend a meeting. *RONR* § 61:7, page 609. This and other provisions of *RONR* conflict with Colorado's statutory requirements for local governments, including the Colorado Open Meeting Law.

14 As examples, see the American Institute of Parliamentarians, *Standard Code of Parliamentary Procedure* (New York: McGraw Hill, 2012); and O. Garfield Jones, *Parliamentary Procedure at a Glance* (New York: Penguin, 1971). At 326 pages in length, the *Standard Code* includes motions and procedures not commonly used or needed during the typical local government meeting. *Parliamentary Procedure at a Glance* is based on *RONR* editions predating the current 12th edition.

15 See Hartley v. City of Colorado Springs, 764 P.2d 1216 (Colo. 1988) (governing body's adoption of meeting rules granted jurisdiction to conduct meetings in accordance with the rules); City of Greeley v. Hamman, 28 P. 460 (Colo. 1891) (where no constitutional or statutory obligation exists to require specific meeting procedure, a governing body is authorized to adopt rules to govern its proceedings); Glenwood Post v. City of Glenwood Springs, 731 P.2d 761 (Colo. App. 1986) (local government may adopt its own rules of order). See also E. McQuillin, *The Law of*

Municipal Corporations, §§ 13:66–13:67 (3rd edition, 2019) (citing numerous state judicial decisions supporting the authority of governmental bodies to adopt rules of order and procedure to govern meetings).

16 *Bob's Rules of Order* does not authorize a Body to conduct virtual meetings. The authorization for the use of different forms of meetings should be addressed by the Body's bylaws or other local policy of the local government.

17 Very generally and in the context of local government meetings and hearings, the constitutional right of procedural due process requires the government to establish and follow processes and procedures designed to ensure fairness to individuals holding a protected property interest. Countless judicial decisions acknowledge that the existence of rules and the compliance with established rules leads to fairness in the administration of laws and government programs.

18 See, e.g., C.R.S. § 31-16-103 (municipal ordinances to be published and recorded in a book to be received as evidence) and C.R.S. §§ 30-11-101, 31-15-401, and 31-15-404 (county laws to be published and recorded). Assuredly, the written law formally adopted by federal, state, and local governments will govern the actions of these respective governments. In addition, unwritten rules, principals, and norms that are consistently followed can, at times, be referenced to support or guide the government's actions.

19 As some examples of courts finding that action taken in accordance with adopted procedural rules of order will be deemed authorized, see L.C. Canyon Partners v. Salt Lake County, 266 P.3d 797 (Utah 2011) (rules expressly authorized action to reconsider and to rescind a decision); Hartley v. City

of Colorado Springs, 764 P.2d 1216 Colo. 1988) (rules of order granted authority to reconsider a prior decision); McGuire v. City of Sweetwater, Tennessee, No. 20-6067, 2021 WL 3620449 (6th Cir. Aug. 16, 2021) (denying citizens the right to speak was authorized by adopted meeting rules of order); Wolfman, Inc. v. City of New Orleans, 874 So. 2d 261 (La. Ct. App. 2004) (board's failure to follow its procedural meeting rules invalidated a decision); Marohn's Buffalo Marketplace v. City of Buffalo, 2002 WL 31819273 (Minn. Ct. App. 2002) (a non-technical defect in following adopted procedural rules proved fatal to a zoning decision).

20 Consistent with *Bob's Rules*, *RONR* recognizes the difference between bylaws and rules of order and also recognizes the confusion that can result when combining or integrating rules of order with bylaws due to important differences in the subject matter and the ability to amend and suspend the rules of the two different documents. *RONR* also recognizes bylaws as being the most important organizational document for the body and that the bylaws will expressly recognize the parliamentary procedure to be applied by the body in the conduct of its meetings. See *RONR*, Chapter XVIII, pages 535–567, and Chapter I, pages 11–13. Similarly, the National Association of Parliamentarians (NAP) recognizes that bylaws and parliamentary procedures/rules of order are not the same. See https://www.parliamentarians.org/wp-content/uploads/2019/10/NAP-Bylaws-2019-Final.pdf.

21 Besides the title "bylaws," some bodies use other titles for the principal governing document for the body, such as "rules of procedure," "rules of procedure and order," "code of procedure," "code of conduct," "meeting regulations," or "meeting guidelines," and at times integrate what is commonly recognized as bylaws with decision-making rules of order into

a single document sometimes titled "rules of order." Both *Bob's Rules of Order* and *RONR* suggest not to combine the bylaws with procedural rules of order because these forms of regulations serve two different purposes.

22 Whether to authorize a Body to conduct video conference meetings (i.e., remote attendance via an online video conference platform such as Zoom, Microsoft Teams, Adobe Connect, GoToMeeting, and Facebook Messenger) is an issue that each local government should consider in its bylaws. Video conference meetings present practical implications and legal issues when conducting these types of nontraditional meetings, with implications and issues largely stemming from requirements of due process and fairness in the quasi-judicial setting.

23 See *RONR*, Chapter V, pages 92–115, The Main Motion.

24 As an example, *RONR* classifies more than 30 motions or motion variations as "main motions," but the phrase "main motion" is also used by *RONR* to describe the primary or principal business motion. See *RONR*, Chapter V, pages 92–115, and Table of Rules Relating to Motions, *RONR*, pages t6–t33.

25 Appendix A at the end of this handbook includes a sample form of a resolution for the adoption of *Bob's Rules*.

26 By way of an example of a potential rule modification, Rule 7.5 provides that voting on all motions should be a "yes" or "no" vote. A Member's vote to "abstain," a Member's silence, or another declaration other than "yes" or "no" is out of order. However, a Body may decide that, after reviewing the rationale of Rule 7.5 and consulting with the Body's legal counsel, abstentions should nonetheless be permitted. Another example of a desired modification may be to Rule 4.3, which limits a

Member's right to the Floor on any matter to a maximum of five minutes unless otherwise authorized by the Presiding Officer. The local government may feel that a time lesser or greater than five minutes, or no time limit at all, should be the recognized rule for the Body.

27 The practice of modifying or amending standardized, uniform, or model regulations and general codes is common. For example, most local governments modify or amend provisions of the International Building Code or the Model Traffic Code at the time of the adoption of these codes by ordinance. *Bob's Rules* uses a numbering system for each rule, point, and motion to enable adopting local governments to identify the provision subject to modification or amendment.

28 For a debriefing of a quasi-judicial decision, the Body's legal counsel may advise that the session be conducted after the expiration of any right of appeal for the decision. For decisions that involve significant or substantive errors, the legal counsel may advise that an executive session be held to receive legal advice regarding the meeting process and the proper application of the *Rules*.

29 See Cherry Hills Resort Development Co. v. City of Cherry Hills Village, 757 P.2d 622 (Colo. 1988).

30 The term "quasi-judicial" (rather than "judicial") is commonly used when referring to the exercise of judicial power by local government officials. The officials are not held to the strict requirements of judges in a court of law but serve in a role that is very similar to a judge. "Quasi" means "having some resemblance by having certain attributes." *Merriam-Webster Online Dictionary,* https://www.merriam-webster.com/dictionary/ quasi. For an excellent summary of the requirements for quasi-judicial action,

see the Colorado Intergovernmental Risk Sharing Agency's (CIRSA) Quasi-Judicial Basic Training presentation prepared by Sam Light, CIRSA General Counsel, at https://www.cirsa.org/wp-content/uploads/2020/05/Quasi-JudicialProceedings.pdf.

31 For an explanation and comparison of quasi-judicial action in the local government context, see Jafay v. Boulder County Comm'rs, 848 P.2d 892 (Colo. 1993); Prairie Dog Advocates v. City of Lakewood, 20 P.3d 1203 (Colo. 2000).

32 City of Aurora v. Zwerdlinger, 571 P.2d 1074 (Colo. 1977).

33 *Discussion*, Black's Law Dictionary, page 567 (10th ed. 2014).

34 See https://www.dictionary.com/browse/discussion

35 See https://www.dictionary.com/browse/debate

36 See https://www.merriam-webster.com/dictionary/debate

37 The term "postpone" means "to change the date or time for a planned event or action to a later one." In contrast, "continue" and more specifically the phrase "continued meeting" means "a meeting that is part of a session that will be … resumed after adjournment." See definitions of *Postpone*, C*ontinue*, and *Continued meeting*, Black's Law Dictionary, pages 1132 and 1356 (10th ed. 2014).

38 *Abstention*, Black's Law Dictionary, page 10 (10th ed. 2014).

39 *Recusal*, Black's Law Dictionary, page 1467 (10th ed. 2014).

40 Legal impediments to voting will commonly result from state statutory provisions concerning conflicts of interest. In addition, the local government's charter, ordinances, bylaws, or code of ethics may impose special requirements on voting that are binding on the Body and its Members. It is important that

Members consult with the local legal counsel regarding voting requirements.

41 Some rules of order, including *RONR*, provide for a separately recognized "motion to amend the agenda." *Bob's Rules* relies upon a Principal Motion as the means to formally amend the agenda for several reasons: (1) the agenda will not often need amending, and creating a separate motion adds unneeded clutter to the *Rules*; (2) a Presiding Officer's discretionary modification of an agenda pursuant to Rule 3.4 is rarely opposed because the modification is readily seen by the Body as acceptable and necessary for efficiency; and (3) the use of a Principal Motion to amend the agenda is no different than a motion to amend the agenda because both motions require the Moving Member to state the specific amendment and to obtain a majority vote from a quorum.

42 Many actions by local government require specialized notice apart from the general meeting notice. As some examples, a separate public notice in addition to the general notice for the public meeting is required for (1) a hearing to change the zone district of property or to adopt or change development regulations, (2) the legislative approval of the local government's budget, and (3) the annexation of property. See C.R.S. § 31-23-304 (zoning and development regulations); C.R.S. § 29-1-106 (budget hearing); and C.R.S. § 31-12-108 (annexation hearing).

43 See C.R.S. § 24-6-402(2)(c)(I).

44 A "meeting" is defined by the Colorado Open Meetings Law as "any kind of gathering convened to discuss public business, in person, by telephone, electronically, or by other means of communication." C.R.S. § 24-6-402 (1)(b).

45 C.R.S. § 24-6-402 (2)(c)(I).

46 As a widely accepted general rule, notice of public meetings and hearings requires information sufficient to reasonably apprise an interested person of the date, time, place, and general purpose of the meeting or hearing. See, e.g., Hallmark Builders v. City of Gunnison, 650 P.2d 556, 559 (Colo. 1982); Whatley v. Summit County Bd. of County Comm'rs., 77 P.3d 793, 801 (Colo. App. 2003). For meetings conducted after July 1, 2019, the Colorado Open Meetings Law directs that the local public body "post the notice, with specific agenda information if available, no less than 24 hours prior to the holding of the meeting on a public website of the local public body." C.R.S. § 24-6-402 (2)(c)(I). Local law or policy may require other forms of notice.

47 As an example of a requirement for the issuance of multiple notices for a hearing, see C.R.S. § 31-12-108 (municipal annexation of land).

48 See note 42.

49 See Standards of Conduct, Article 18 of Title 24, C.R.S. (*Code of Ethics* and *Proscribed Acts Related to Contracts and Claims*) and C.R.S. § 18-8-308 (*Failing to Disclose a Conflict of Interest*).

50 See Chapter 2, Special Terminology, "Abstain" and "Recuse."

51 *RONR* prohibits or discourages any discussion prior to a motion. For example, *RONR*, § 4:7 on page 30 states that, "under parliamentary procedure, strictly speaking, discussion of any subject is permitted only with reference to a pending motion." In addition, *RONR* states that "[t]he general rule against discussion without a motion is one of the parliamentary procedure's powerful tools for keeping business 'on track,' and an observance of its spirit can be an important factor in making even a

very small meeting rapidly moving and interesting." *RONR*, § 4:8, page 31. For a "small board," *RONR* allows for informal discussion without a motion, although what may be "informal" is undefined by *RONR*. *RONR*, § 49:21, pages 464–465. It may prove inefficient for the Body to expend time entertaining and deciding objections concerning whether a particular discussion is "informal" and demands by one or more Members that the Body cease discussion in order to comply with *RONR*.

52 See note 53. It could be viewed as unfair in a judicial proceeding for the judge to announce at the outset of the proceeding and prior to the presentation of any evidence that she is proposing to rule against one of the parties.

53 See, e.g., Wells v. Del Norte School Dist., 753 P.2d 770, 772 (Colo. App. 1987); Soon Yee Scott v. City of Englewood, 672 P.2d 225, 227 (Colo. App. 1983); Omar T. McMahon, *A Fair Trial Before Quasi-Judicial Tribunals as Required by Due Process*, 29 Marq. L. Rev. 95 (1948).

54 A Member sitting as a judge in a quasi-judicial proceeding may offer or acknowledge factual testimony in a very limited circumstance, called "judicial notice." The Member may express a fact that is not subject to reasonable dispute because it (a) is generally known (such as the sun rises in the east) or (b) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned. Judicial notice is a very limited and specialized exception that allows a judge to express or to accept a fact that "everyone already knows."

55 A quasi-judicial decision may be challenged in a state court pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure. According to Colorado courts and Rule 106(a)(4), a court may invalidate a Body's decision if there is no competent

evidence to support the decision. "No competent evidence" means that there is an absence of evidence in the record to support the ultimate decision of the Body, and the decision is found to be arbitrary and capricious. See, e.g., McCann v. Lettig, 928 P.2d 816 (Colo. App. 1996); Board of County Commissioners of Routt County v. O'Dell, 920 P.2d 48 (Colo. 1996); Carney v. Civil Service Commission, 30 P.3d 861 (Colo. App. 2001); Cruzen v. Career Services Board, 899 P.2d 373 (Colo. App. 1995).

56 Not all meetings of a Body must follow the same quorum requirement. For example, a Body's bylaws may provide that a workshop or study session where no formal decisions may be made can be conducted with a quorum different than the quorum necessary to conduct formal business and vote on motions binding the Body.

57 Legal counsel will most often advise that the Body must refrain from discussion of a quasi-judicial matter unless a quorum of the Body is present and proper notice of the meeting was issued.

58 A meeting pursuant to the Colorado Open Meetings Law (COML) is defined as "any kind of gathering, convened to discuss public business, in person, by telephone, electronically, or by other means of communication." C.R.S. § 24-6-402 (1)(b). COML recognizes that meetings "at which any public business is discussed … are declared to be public meetings open to the public at all times." C.R.S. § 24-6-402 (2)(b).

59 Rule 2.2 and the meaning of the phrase "total membership" in the context of a quorum is consistent with C.R.S. § 2-4-111 (defining as a matter of statutory construction that a "quorum of a public body is a majority of the number of members fixed by statute."). The meaning is also consistent with C.R.S. § 31-1-

101(4) (definition of "governing body" that provides that, "[f]or purposes of determining a quorum or the required number of votes for any matter, 'governing body' includes the total number of seats on the governing body but does not include the seat held by a nonvoting city manager under section 31-4-214."). Note that setting a quorum requirement based upon the total number of persons *attending* the meeting can lead to an unacceptable result. For example, if the quorum requirement for a meeting of a seven-member body is a majority of the "members present" or "in attendance" and only three members attend the meeting, a motion that requires a vote of a majority of the members present or in attendance may be approved with only two affirmative votes or far less than a majority of the total membership of the Body.

60 The Body's bylaws or other policy should describe what constitutes a presence at a meeting, which may include, in addition to actual physical presence, participation by telephone or attendance through a video conferencing platform such as Zoom, Microsoft Teams, Adobe Connect, GoToMeeting, or Facebook Messenger.

61 Many local government bodies recognize positions for one or more nonvoting members on the Body. These positions may be titled as an "ex officio," an "alternate," an "associate," or a "liaison" member. Although the persons in these positions may sit at the dais and may take part in discussion and debate, these members are not eligible to vote except, where provided by the bylaws or other policy, when the member is authorized to fill a voting position in the event of an absence of a voting Member. It is the total number of authorized voting positions on the Body (which is a number set by state or local law, the bylaws, or other governing policy) and not the total voting and nonvoting

positions that will comprise a quorum for purposes of the *Rules of Order*.

62 The Body's bylaws should describe the accepted justifications for an excused absence and who may grant the excuse. Many bylaws provide that the Presiding Officer is authorized to grant an excuse when justified and that the Presiding Officer's decision is subject to a Point of Appeal.

63 If the quorum was established with the minimum number of Members necessary for a quorum, the absence of an *excused* Member will deny the Body of a quorum and the ability to conduct business and make decisions. Such an impact on the quorum in such circumstances is an unfortunate aspect of a public meeting and the quorum requirement.

64 Most motions require a majority or a supermajority of a quorum. With each absence of a Member from the meeting, the number of votes needed for approval of a motion may be more difficult to achieve—that is, securing a majority vote of four Members from a seven-member Body when all seven Members are in attendance is more achievable than securing three votes from only four Members in attendance from the same seven-member Body. An emergency ordinance, as another example, requires three-fourths of the entire membership of the governing body. When only six Members are present and eligible to vote from a seven-member Body, a unanimous vote of all six Members will be necessary for approval of the emergency ordinance. When the quorum requirement is satisfied for a seven-member Body with fewer than six Members, the Body cannot enact an emergency ordinance. See C.R.S. § 31-16-105.

65 The Body's legal counsel should be consulted about any need to re-publish or re-post new hearing notices for a postponed quasi-judicial hearing.

66 Note that Rule 3.3 takes a different approach from the general requirements of *RONR*, which provide that the chairperson may not participate in discussion or debate unless the chairperson formally relinquishes the chair to another member of the body. *RONR*, Chapter XII, § 43:29, page 374. However, Rule 3.3 is consistent with the rules in *RONR* as applied to a "small board." For small boards, *RONR* allows the chairperson to speak in "informal discussion." *RONR*, Chapter XVI, § 49:21, pages 464–465. Unfortunately, *RONR* does not define what constitutes "informal discussion," and this deficiency can potentially lead to conflict when members believe that the chairperson's comments during discussion are not informal. Equally unhelpful in applying *RONR* in this case is the common definition of "informal," which generally means "marked by the absence of formality or ceremony." See *Merriam-Webster Online Dictionary* at https://www.merriam-webster.com/dictionary/informal

67 See C.R.S. § 31-4-302, which applies to a municipal board of trustees. This section provides that "an ordinance limiting the mayor's power may provide that the mayor shall not be counted for purposes of deciding a quorum or for the requisite majority on any matter to be voted on by the board of trustees."

68 Id.

69 Concurrence or consent is often expressed by an absence of any objection from the Members upon the Presiding Officer's proposal to take an action. Some Presiding Officers ask for a show of hands or pose an inquiry of "Thumbs up?" or "Any

objections?" to solicit the Body's general consent in place of a formal vote.

70 When the Presiding Officer holds the office of mayor, the passing of the gavel to another Member does not relieve the mayor from any statutory, charter, or other limitation imposed on the office of mayor. For example, in a statutory town, an ordinance may be adopted to deny the mayor the right to vote except in the event of a tie vote. See C.R.S. § 31-4-302. Assigning the role of Presiding Officer to another Member will not relieve the mayor from this statutory limitation. The passing of the gavel only authorizes another Member to conduct the meeting in the role of Presiding Officer.

71 This informal concurrence or consent is often expressed by an absence of any objection from the Members upon the Presiding Officer's proposal to take an action. Some Presiding Officers ask for a show of hands or pose an inquiry of "Thumbs up?" or "Any objections?" to solicit the Body's general consent in place of a formal vote.

72 In some limited circumstances, the local home rule charter, ordinance, or policy may provide that the Body may only act by ordinance, resolution, or motion. This type of limitation could be interpreted to prohibit all use of an informal consensus by the Body, even for minor matters. The Body should consult with its legal counsel when deciding the proper interpretation of any charter, ordinance, or other policy provisions that may limit the authority to render decisions informally.

73 Although reference is made in *Bob's Rules* to the expression of "yes" or "no" regarding a Member's vote, other affirmative expressions such as "aye" or "nay" are not precluded by the

Rules if the expression clearly informs the Body of the Member's vote.

74 It would be unfair for the Moving Member to speak to a motion that is <u>not</u> debatable because the other Members would not share the same opportunity to comment or debate. A nondebatable motion asks the Body to take a defined and specific action, which does not require Members to engage in a detailed evaluation of viewpoints or to debate the possible impacts or effects of the motion.

75 A Friendly Amendment is premised on the practice of unanimous consent as recognized by *RONR*, Chapter II, §§4:59–4:62, pages 49–51.

76 The debatable motions are the Principal Motion, Motion to Continue or Postpone, Motion to Amend, Motion to Reconsider, and Motion to Adjourn.

77 A Member may also express the objection by a Point of Order to require the Body to comply with Rule 5.1 and to entertain the amendment by a formal Motion to Amend.

78 The debatable motions are the Principal Motion, Motion to Continue or Postpone, Motion to Amend, Motion to Reconsider, and Motion to Adjourn.

79 A Friendly Withdrawal is premised on the idea of unanimous consent found in several publications and also recognized by *RONR* in Chapter II, §§ 4:58–4:63, pages 49–51.

80 The Body's bylaws should address what constitutes attendance (or presence), which may include attendance by telephonic or virtual means in addition to physical presence. Most bylaws will effectively prohibit voting by proxy when the quorum

determination is based upon physical presence in the meeting or upon authorized virtual or telephonic attendance.

81 Most often, the Member granting the proxy will not attend the meeting, although absence from the meeting is not typically a requirement to grant a proxy.

82 Procedural due process for a quasi-judicial matter requires that the persons deciding the matter enter the hearing as neutral and unbiased judges and render a decision based only on the evidence presented during the hearing. See, e.g., Wells v. Del Norte School Dist., 753 P.2d 770, 772 (Colo. App. 1987); Soon Yee Scott v. City of Englewood, 672 P.2d 225, 227 (Colo. App. 1983); Omar T. McMahon, *A Fair Trial Before Quasi-Judicial Tribunals as Required by Due Process*, 29 Marq. L. Rev. 95 (1948).

83 *RONR* and one set of uniform rules of order offered to local government officials prohibit a member making a motion from speaking against the member's own motion. *RONR*, § 43:25, pages 372–373; Ann G. Macfarlane and Andrew L. Estep, *Mastering Council Meetings* (Seattle, ERGA, Inc. 2013), at Appendix C, page 115.

84 Recall that the Moving Member is afforded the first right to the Floor to speak to the motion pursuant to Rule 5.6. In this initial address to the Body, Rules 5.6 and 7.4 allow the Moving Member the opportunity to explain that the motion is offered only to allow debate, and the Moving Member can offer reasons why the Body should reject the motion.

85 Although *Bob's Rules* references the expression of a "yes" or a "no" vote regarding a motion, other affirmative expressions such as "aye" or "nay" are not precluded by the *Rules* if the expression clearly informs the Body of the Member's vote.

86 See Chapter 2, Special Terminology, "Abstain" and "Recuse." See also Chapter 1, Incorporating *Bob's Rules* into Meeting Practice, for guidance on changing the *Rules* to recognize a right to abstain when voting.

87 *RONR* recognizes that a member holds a "duty" to vote in support or opposition of a motion. Yet, without detailed explanation, *RONR* also states that a member has a "right" to abstain because a member cannot be "compelled to vote." See *RONR* §45:3, page 385.

88 Here, a vote "prevented by law" will arise from a Member's conflict of interest or from state or local laws governing participation and voting due to the form of government (e.g., a mayor's statutory requirement to vote only in the event of a tie where a local ordinance limits the mayor's powers). Because conflicts of interest as well as limitations imposed by the form of government may be rules and requirements specific to the Body and its purpose, these matters should be addressed in the bylaws and not in the parliamentary procedures or rules of order for a meeting.

89 The Body's bylaws, code of ethics, or other policy may also recognize a Member's failure to follow Rule 7.4 and to vote "yes" or "no" as an intentional breach of the rules of order that may subject the Member to a specified disciplinary action, such as censure.

90 See, e.g., State ex rel. Miller v. Marshall, 184 So. 870 (1938) (finding that abstentions and nonvoting members "virtually acquiesce" in the decision made by those who do vote, citing numerous judicial decisions and tracing the common law to the 1760 decision of Oldknow v. Wainwright, 2 Burr. 1017 (English Reports, Full Print, Vol. 97, page 683)); 63 A.L.R.3d

1072 – *Abstentions from Voting of Member of Municipal Councils Present at Session as Affecting Results* ("courts have adopted and applied the rule or view that abstention is to be considered as acquiescence in [the] action favored by the majority of those who do vote, and have held or recognized that the nonvoting members should be considered, or counted, as having voted in the affirmative—in favor, that is, of the particular proposition requiring such a specific majority."); E. McQuillin, *The Law of Municipal Corporations*, § 13:46 (3rd edition, 2019) ("while it has been said that those present who refuse to vote for a proposition cannot be counted, the general rule is that they are regarded as having voted affirmatively, i.e., for the proposition … a 'pass' vote must be counted as voting with the majority.").

91 See Chapter 3, Section 2.0, for the rules governing the quorum.

92 See C.R.S. § 31-16-103 for general municipal action by ordinance, resolution, or order and C.R.S., § 30-15-404 for general county action by ordinance.

93 Note that the Colorado Open Meetings Law (COML) requires this same voting standard as a matter of statutory law be applicable to every public body as defined by COML. See C.R.S. § 24-6-402(4).

94 See C.R.S. § 31-16-103.

95 See C.R.S. § 31-16-104.

96 See C.R.S. § 31-16-105.

97 See C.R.S. § 31-23-305.

98 See Section 22.0 and Colorado Open Meetings Law at C.R.S. § 24-6-402(4).

99 See Home Rule Charter for the City of Centennial, Colorado, §13.2 at https://library.municode.com/co/centennial/codes/municipal_code.

100 This objection should be raised by a Point of Order. See Section 11.0.

101 An idiom meaning that something more powerful is controlled by something less powerful. https://www.merriam-webster.com/words-at-play/wag-the-dog-idiom-meaning.

102 The number and names of classes of motions in *Bob's Rules of Order* differ from other procedural rules. For example, *RONR* provides five different classes of motions: main, subsidiary, privileged, incidental, and motions to bring a matter again before the assembly.

103 A Motion to Continue or Postpone is a hybrid motion, meaning that it can serve as a main motion or as a subordinate motion. As a main motion, the Motion to Continue or Postpone can be used to delay consideration of an item on an agenda that is not yet open or delay consideration of a matter that is open but for which no main motion is pending before the Body. As a subordinate motion, the Motion to Continue or Postpone will ask to delay a matter for which a main motion is on the Floor and pending before the Body.

104 See note 103.

105 A Member may use the phrase "Point of Clarification." The Presiding Officer should recognize that a Point of Information and a Point of Clarification are interchangeable.

106 See note 103.

107 The debatable motions are: Principal Motion, Continue or Postpone, Amend, Reconsider, and Adjourn.

108 The motions that are not debatable and are single-purpose motions are: Close Debate, Recess, and to conduct an Executive Session. A Motion to Amend, although debatable, is not capable of amendment pursuant to Rule 14.3 (no amendment of a motion to amend).

109 Other rules of order, including *RONR*, recognize a larger number of different main motions available to propose a general business action to the Body. The names of these general action motions include a "main motion," "original main motion," and "incidental main motion," among others. *Bob's Rules of Order* dispenses with a need to understand and differentiate between these varying and potentially confusing forms of main motions and simply recognizes that a Principal Motion is the form of main motion used to propose that the Body take an action.

110 An emergency ordinance will take effect immediately upon adoption. See C.R.S. § 31-16-105.

111 See C.R.S. § 31-23-305.

112 To understand the interchangeable nature of the terms "continue" and "postpone," see Chapter 2, Special Terminology, "Continue" and "Postpone."

113 Recall that "open" is defined by the *Rules* to mean that the agenda item has been formally announced or presented to the Body. See Chapter 2, Terminology, "Open."

114 See Section 9.0 to understand the priority of main, subordinate, and privileged motions.

115 A public notice customarily requires information that is sufficient to advise the public of the time, date, place, and purpose of the meeting or hearing.

116 See Chapter 2, Special Terminology, "Legislative," "Quasi-Judicial," and "Administrative Powers."

117 *Bob's Rules of Order* disfavors the use of the expression "call the question." This expression can create confusion because it can imply—and some bodies improperly allow the use of the expression in practice—to mandate the immediate cessation of debate and an immediate vote on the question (or motion). No published set of procedural rules authorizes a member to unilaterally stop the body's debate and cause a vote on a pending motion. The proper practice is to seek approval of the body to stop (i.e., close) debate, which, if approved, will naturally result in the motion proceeding to a vote. Nevertheless, the Presiding Officer can recognize a Member's intent behind a "motion to call the question" as a Motion to Close Debate. The *Rules* does not prohibit a Body's use of a motion to call the question if the use of the motion is ingrained in the Body's meeting practice.

118 See Chapter 2, Special Terminology, "Quasi-Judicial," "Legislative," and "Administrative Powers."

119 For a judicial decision noting the important differences between a motion to reconsider and motion to rescind a prior decision (under *RONR*), see L.C. Canyon Partners v. Salt Lake County, 266 P.3d 797 (Utah 2011).

120 Note that Rule 2.5 authorizes Members of the Body and administrative staff members to announce the adjournment of a meeting in the absence of a quorum.

121 A Point of Appeal challenging the Presiding Officer's discretionary decision to adjourn could be possible where the Body seeks to consider other non-agenda matters and the Presiding Officer uses the discretion to adjourn the meeting as a means of avoiding such consideration.

122 Recall that a Point of Information is privileged and is in order at any time and that any Member, including the Presiding Officer, my propose a Point of Information.

123 Here, the Town Attorney further understands that a motion that is not on the Floor can be voluntarily withdrawn by the Moving Member. See Rules 5.4 and 5.5.

124 Note that the Presiding Officer makes a motion in this example notwithstanding that Rule 3.5 encourages the Presiding Officer to customarily defer to the Members to take such action. Here, however, the Presiding Officer recognizes the efficiency of making the motion in order to directly inform the Body of the proposed process to most effectively adjourn the meeting.

125 Which authorization will be found at subsections (a) through (h) of C.R.S. § 24-6-402(4).

126 C.R.S. § 24-6-402(4).

127 Id.

128 C.R.S. § 24-6-402(4)(a).

129 C.R.S. § 24-6-402(4)(b).

130 C.R.S. § 24-6-402(4)(c).

131 C.R.S. § 24-6-402(4)(d).

132 C.R.S. § 24-6-402(4)(e).

133 C.R.S. § 24-6-402(4)(f)(I).

134 C.R.S. § 24-6-402(4)(f)(II).

135 Id. As a side note, a special statutory provision of the Colorado Open Meetings Law found at C.R.S. § 24-6-402(3.5) may authorize non-public executive sessions to conduct some of the business associated with selecting the government's chief executive officer (commonly the principal manager or administrator). Consultation is advised with the Body's legal counsel to understand the applicability of this statutory provision and the steps necessary to hold these very special forms of non-public public meetings.

136 C.R.S. § 24-6-402(4)(f)(II).

137 C.R.S. § 24-6-402(4)(g).

138 C.R.S. § 24-6-402 (2)(d.5)(II)(C).

139 C.R.S. § 24-6-402(9)(b).

140 Millage v. Spahn, 175 P.2d 982 (Colo. 1946) (a waiver is the intentional abandonment of a known right). Although an intent to waive a benefit may be implied by conduct, the conduct itself should be free from ambiguity and clearly manifest the intention not to assert the benefit. Department of Health v. Donahue, 690 P.2d 243, 247 (Colo. 1984).

141 The Colorado Open Meetings Law does not define the term "leadership." The *Rules of Order* subscribes to the proposition that "leadership" is a position on the Body that holds a present or potential future right to preside over the Body's meetings. Such position is customarily titled as mayor, mayor pro tem, council or board president or vice president, or chairperson or vice chairperson. The Body's legal counsel should be consulted

regarding the proper meaning of the term "leadership" and to consider the intent underlying the use of this undefined term in the Colorado Open Meetings Law at C.R.S. § 24-6-402(2)(d)(IV).

142 See note 141.

143 A "secret ballot" means "a vote cast in such a way that the identity of the person voting, or the position taken in such vote is withheld from the public." C.R.S. § 24-6-402(2)(d)(IV). For the purposes of the *Rules*, such methods may include but are not limited to the use of paper ballots without a designation of the person casting the vote or a form of voting software that allows the casting of anonymous votes.

144 In addition to holding a roll-call vote or by immediately posting each individual Member's vote, a vote will be deemed a publicly known vote if the vote is (i) cast on a written ballot, (ii) the written ballot clearly identifies the name of the voting Member, and (iii) the ballot is readily available for public inspection upon request.

145 Section 24.0 may be the preferred election process when the multiple positions to be filled each have different terms of office.

Bob's Rules of Order for
Colorado Local Governments

SIMPLIFIED PARLIAMENTARY
RULES FOR PUBLIC MEETINGS

Rules of order are vital to an efficient local government meeting. Rules provide processes and procedures that are pre-designed to create organization, to promote fairness among participants, and to lead to a more thorough evaluation of issues. To be most effective for government, the rules should be tailored to the government's specialized needs and should avoid the length and complexity found in Robert's Rules of Order. *Bob's Rules of Order for Colorado Local Government* seeks to fill the need for reasonable, workable, and easily understandable parliamentary procedures.

"Governing has never been an easy job, and in recent years, it's gotten tougher with the cacophony of views in our communities and among elected officials. Bob's Rules of Order lays out how to have both efficient and effective meetings where all voices are fairly and equitably heard. He shows how to have differences of opinion without it deteriorating into dysfunction."

Kathy Hodgson, City Manager, Lakewood, Colorado

"Bob's Rules of Order is the definitive resource for simple, clear standards for governing bodies. This is absolutely the best guide to help government complete the important business of the public without being distracted by complex or cumbersome rules."

Kevin Bommer, Executive Director, Colorado Municipal League

PEAK NINE
PRESS

STAFF MEMO

DATE OF MEETING: AUGUST 12, 2024 / AGENDA ITEM NO. A.

To: Mayor and City Council

From:

Subject:

SUMMARY STATEMENT:

BACKGROUND INFORMATION:

BUDGETARY IMPACTS: None

STAFF RECOMMENDATIONS: None

ALTERNATIVES: None

PUBLIC OUTREACH: This item has been promoted through the regular communication channels to be considered by the Lakewood City Council.

NEXT STEPS: None

ATTACHMENTS:
1. City Council Request for Legislative Modifications-61
2. City Council Request for Legislative Modifications-62

REVIEWED BY: Kathleen E. Hodgson, City Manager
Benjamin B. Goldstein, Deputy City Manager
Alison McKenney Brown, City Attorney

City Council Request for Legislative Modifications

Lakewood
Colorado

Submitted on	1 August 2024, 4:07PM
Receipt number	61
Related form version	8

Council member sponsor(s)	David Rein
Enter email address to receive a copy of this submission	drein@lakewood.org
Briefly describe the minor modification being requested	Request that the Lakewood Advisory Commission collect information on how other cities in Colorado and elsewhere mandate or incentivize businesses to install EV fast charging stations; identify the best practices that the LAC believes the City of Lakewood might consider for further analysis.
Provide history / background information that supports the request	The city has been looking for opportunities to expand the electric charging stations throughout the city. The city agreed to provide Excel with an easement to encourage building fast charging stations at City Hall and August 5th will consider whether to mandate that gas stations provide EV charging stations. At the moment, there does not appear to be a comprehensive plan with respect to EV charging. Gathering information on approaches by other cities and identifying potential best practices will aid in future ordinances.
If it needs expedited handling, please provide an explanation why	
Attach file if needed	

City Council Request for Legislative Modifications

Lakewood
Colorado

Submitted on	1 August 2024, 4:17PM
Receipt number	62
Related form version	8

Council member sponsor(s)	David Rein
Enter email address to receive a copy of this submission	drein@lakewood.org
Briefly describe the minor modification being requested	Request that the Lakewood Advisory Commission study how other cities have capitalized on attracting and retaining businesses of all sizes with the addition high-speed internet; and identify best practices that the city might consider.
Provide history / background information that supports the request	Recently Google Fiber and another company have been installing high-speed internet connections. This is due in large part because of the actions of the LAC and prior City Councils opening the option that the city would provide such services if the private sector did not do so. Although Lakewood is well behind many cities in finally getting high-speed internet, we can take advantage of learning what other cities have done or tried to do to encourage businesses to relocate or to stay in Lakewood now that we have high-speed internet.
If it needs expedited handling, please provide an explanation why	
Attach file if needed	