

**CITY OF COLORADO SPRINGS<sup>1</sup>**

**RULES AND PROCEDURES OF CITY COUNCIL**

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<sup>11</sup> Rules of Council are adopted by §3-50 of the Charter of the City of Colorado Springs

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## **PROLOGUE**

The General Municipal Election held on November 2, 2010 authorized a substantial change from the Council-Manager form of government that voters had instituted on July 6, 1920, to a Council-Mayor form of government. The amended Charter now provides for the election of three (3) at-large members and six (6) district members from whom the members shall elect a President of City Council. The positions of City Manager and Vice-Mayor have been eliminated. The new Mayor is now the chief executive and head of the City government, is responsible for all executive and administrative affairs, works for the City full time, holds no other paid position, will develop the budget in line with the City's strategic plan, will act to approve or disapprove ordinances finally passed by Council with certain specified exceptions, may disapprove specific line items in any ordinance appropriating funds, and will appoint, subject to confirmation by City Council, the City Clerk, City Attorney, Municipal Judges, Chief Financial Officer or Controller, Police Chief, Fire Chief, and lead managers of public works, parks, community development, and the airport. The Mayor will appoint a Chief of Staff to act as an administrative officer of the municipal government under the Mayor's supervision and who shall serve at the pleasure of the Mayor. The Mayor shall not appoint the chief executive officers of the City Utilities or the City's health system. The Mayor shall serve as an ex officio and non- voting member of the Board of Directors for Utilities. (2011)

## **PURPOSE OF RULES AND PROCEDURES OF COUNCIL**

All legislative powers of the City of Colorado Springs are vested in Council except as otherwise provided by law or City Charter § 3-10(a). To conduct its business as Council, City Council is authorized to amend and publish its own Rules of Procedure (City Charter § 3-50). These rules provide for Council's actions in meetings and hearings, as Council in its legislative, quasi-judicial and regulatory roles. These rules do not apply to Council's role as the Board of Directors for Colorado Springs Utilities. As the Utilities Board, Council has established written policies and by-laws to govern Colorado Springs Utilities and Utilities Board meetings. (2000; 2011)

In its legislative role, Council is the lawmaker for the City as a whole, including Colorado Springs Utilities, Memorial Health System Enterprise, and other municipal enterprises. With respect to Colorado Springs Utilities, Memorial Health System Enterprise, and other municipal enterprises, in its legislative role, Council is responsible for:

- Providing by ordinance a system for the collection, custody, and disbursement of all public monies; (Charter § 7-20(b))
- Adopting the budget with or without amendment and appropriating funds; (Charter § 7-30(a))
- Estimating, declaring and adopting by ordinance, the amount of money necessary to be raised by tax levy; (Charter §§ 7-30(b) and 7-40)
- Including in the budget all stipends and other expenses of City Council and the salary of the Mayor; (Charter § 7-30(c))
- Issuing local improvement district bonds; (Charter § 7-80)
- Borrowing money or issuing bonds for the purpose of acquiring, constructing, extending or improving water, electric, gas, sewer, or other public utilities or income producing projects; (Charter § 7-80)
- Initiating eminent domain (condemnation) proceedings to acquire land or easements;
- Extending Colorado Springs Utilities' water and wastewater service outside the City limits;
- Undertaking other legislative roles as established by applicable statute or court decision;
- Serving as the Board of Directors for Colorado Springs Utilities;
- Reviewing a Mayor's proclamation in times of public emergency and terminating such proclamation by a majority vote of the Council;

- Maintaining a strategic plan which prioritizes goals for the City Council and establishing measurable outcomes. The planning process should consider public input and be provided to the Mayor for consideration in the development of the municipal budget;
- Confirming by a concurring vote of the majority of members, Mayoral appointees as designated by the Charter;
- Providing for an annual “Report to the Citizens;”
- Appointing the City Auditor; and
- Reviewing and approving personnel policies and procedures for City employees as well as municipal purchasing and contracting rules and regulations. (2000; 2011)

Council is also the regulatory authority for Colorado Springs Utilities. In that role, it is responsible for setting rates for regulated electric, natural gas, water, and wastewater services. (2000)

## **PART 1 - ORGANIZATION**

### **1-1. ELECTION OF OFFICERS**

A. Term. The term of newly elected Councilmembers shall commence at 10:00 a.m. on the third Tuesday of April following their election.

B. First Meeting. The Council shall hold its first meeting on or after the third Tuesday of April. At that first meeting, the Council shall elect from its members:

1) A President who shall serve for two (2) years and may be removed from office by a vote of at least five (5) members.

2) A President Pro Tem who shall serve for two (2) years and may be removed from office by a vote of at least five (5) members.

C. Election of Officers. The election of Council officers shall be conducted as follows:

1) Candidates for the office of President and President Pro Tem shall be nominated from the floor, separately, before the election for each office.

2) No second to a nomination shall be required.

3) The nominations shall be closed by a declaration of the presiding officer after the presiding officer asks for further nominations and receives no reply.

4) The election for each office shall be in the form of a roll call election in which each member of Council, when called upon, declares his or her vote for a candidate.



5) Officers shall be elected by a majority vote of the entire Council (five members). In the event there are more than two (2) candidates for an office and no individual receives a majority vote, the candidate receiving the least number of votes shall withdraw until one (1) candidate receives a majority vote (Charter § 3-20)

D. Other Presiding Officer

1) For brief periods during meetings, the President may designate any member of Council to preside in the temporary absence or inability to act of the President and President Pro Tem.

2) If, at the time of convening the meeting, the President and President Pro Tem shall be absent, then the Clerk shall call the Council to order, and upon ascertaining a quorum, the first order of business shall be the election of a member as a temporary presiding officer, who, when elected, shall preside at that meeting with all the powers and authority of the President.

**1-2. POWERS AND DUTIES**

A. President. The President shall be the presiding officer at all Regular, Work Session and Special meetings and Study Sessions of City Council and shall have the following powers and perform the following duties:

1) Prepare agendas for Regular, Work Session, and Special Meetings of City Council with the assistance of the City Council Administrator, City Clerk and City Attorney.

2) Take the chair, call the members to order, and upon a quorum being present, proceed to business.

3) Preserve order and decorum and have general direction of the Council Chambers, and the approachers thereto, call upon the sergeant at arms as necessary to enforce compliance with the rules, and confine members in debate to the question under discussion.

- 4) Decide all questions of order, subject to a member's right to appeal to the Council as a whole.
- 5) Speak to points of order in preference to other members.
- 6) Speak as other members on general questions from the chair, or when he or she shall call some other member to the chair.
- 7) Announce the results promptly on the completion of every vote.
- 8) Receive all messages and communications from other departments and may have them read by the Clerk or placed on file at his or her discretion unless the Council, by vote, shall order a message or communication read.
- 9) Sign all resolutions and ordinances passed by the Council, and the Clerk shall attest the same.
- 10) Issue proclamations and letters of recognition.
- 11) Vote upon all questions in the same manner as any other Councilmembers.
- 12) Summarize the direction given by Council and work with the City Council Administrator to ensure direction is executed.
- 13) Appoint special boards, committees, or commissions pursuant to Rule 5-2 of these Rules and Procedures.
- 14) Serve as the official spokesperson for Council on Council decisions and may prepare correspondence stating Council's decision.

15) Initiate the annual performance evaluations of Council Appointees.

16) Assign each Councilmember a seat in the Council Chambers and alter the seating arrangement as needed. The President shall also assign each Councilmember an office in City Hall.

17) Call special meetings of the Council in accordance with Part 2-3.

B. President Pro Tem. In the absence of the President, upon his or her inability to act, or upon the request of the President, the President Pro Tem shall preside and shall have all powers and authority of the President.

### **1-3. SUCCESSION (Charter § 4-20)**

A. Whenever the Mayor is unable, from any cause, to perform the duties of the office for more than a temporary or short-term absence, the President of the Council shall be the acting Mayor and shall hold such office until a successor of the Mayor last elected pursuant to the provisions of Charter § 2-10 is elected and qualified, at which time the President of the Council may return to his or her seat on Council. (2011)

B. If the President of Council refuses or is unable to discharge the duties of the Office of the Mayor during more than a temporary or short-term absence, the Council shall elect one of its members acting Mayor, who shall hold such office until a successor of the Mayor last elected pursuant to the provisions of the Charter § 2-10 is elected and qualified. (2011)

## **PART 2 - COUNCIL MEETINGS**

### **2-1. REGULAR COUNCIL MEETINGS**

A. All Regular meetings of the Council shall be held in the Council Chambers at the City Hall, 107 N. Nevada Avenue, Colorado Springs, Colorado, or at such other places as determined by Council by resolution. Regular meetings of the Council shall be held on the second and fourth Tuesdays of each month, commencing promptly at 1:00 p.m. or on such other dates and times as determined by Council. Regular Meetings shall be open to the public, except Executive Sessions, and citizens shall have a reasonable opportunity to be heard under such rules and regulations prescribed by Council. (1982; 2000; 2003; 2011; 2013)

### **B. Order of Business**

The order of business at formal Council meetings shall be:

- 1) Call to Order
- 2) Invocation and Pledge of Allegiance
- 3) Changes to Agenda/Postponements
- 4) Consent Calendar - within this section are included approval of the minutes and all matters of a routine, noncontroversial nature such as acceptance of grant funds, land use items previously approved by Planning Commission, routine budget appropriations and second readings of ordinances unanimously approved by Council. The record on all items called on the Consent Calendar shall include all items distributed to Council for the meeting and the decision and record before the Planning Commission or other body or commission which has considered the matter. Any Councilmember, citizen, or Mayor wishing to address the City Council upon any item on the Consent Calendar may so request and the item will be removed from the Consent Calendar and set aside for action following Mayor's Business. If more than one item is removed from the Consent Calendar, those items shall be considered in the order as taken from the Consent Calendar. The Consent Calendar, after removal of any controversial items, shall then be adopted as a whole by unanimous vote. Each item on the Consent

Calendar approved by unanimous vote shall be deemed to have received the unanimous vote of all Councilmembers present, and the journal shall so reflect. (2011)

5) Recognitions – such as communications, presentations, proclamations and resolutions.

6) Citizen Discussion – limited to items not pending before Council on the agenda. Each speaker is limited to three (3) minutes to discuss items of interest that are not on the agenda and not repetitious. The President may modify time limits and limit comments to a fixed time period, subject to a determination otherwise by approval of an appropriate motion by Council. Time limits will be strictly enforced by the President of the Council and time will be kept by the City Clerk. (2011)

7) Mayor's Business (2013)

8) Items Called Off Consent Calendar - matters removed from the Consent Calendar shall be discussed and voted upon individually. (2011)

9) Utilities Business (2011)

10) Unfinished Business (2011)

11) New Business (2011)

12) Public Hearings (2011)

13) Added Item Agenda (2013)

14) Executive Session (2013)

15) Adjourn (2013)

The order of business may be altered by a majority vote of the number of City Councilmembers present. The President has the discretion to call matters on the agenda out of order in order to manage the meeting. In addition, the President will be responsible for establishing the order of and length of time allocated or any audio/visual presentations to be made at the meeting.

**2-2. WORK SESSION MEETINGS**

A. The Council shall meet on the Monday immediately preceding Regular Meetings at 1:00 p.m. in the Council Chambers at the City Hall, 107 N. Nevada Avenue, Colorado Springs or at other times and places upon call of the President of the Council or at the request of three (3) members of the Council to discuss matters pending or proposed. The City Clerk shall record and keep a journal of informal meetings, which shall be a public record. (1982; 1989; 1992; 2000; 2003; 2011)

B. Work Session meetings of the City Council are open to the public. Work Session meetings are not a time for public comment on items scheduled for discussion unless noticed otherwise on the agenda or permitted by the President. No official legislative action shall be taken and no quorum shall be necessary at a work session meeting. As used herein, official legislative action shall mean the passage of an ordinance or a resolution or taking quasi-judicial action. Council efforts to arrive at a consensus position to research or study a matter shall be permitted. (1982; 1989; 1992; 2000, 2001; 2011; 2013)

C. Order of Business.

The order of business at Work Session meetings shall be:

- 1) Call to Order
- 2) Changes to Agenda

- 3) Formal Agenda Comments to Staff - Advise staff of possible changes to agenda and items to be called off consent.
- 4) Review of Informal Meeting Minutes - If no objection is made to the minutes as presented by the City Clerk, the minutes shall stand approved without express motion to that effect.
- 5) Executive Session
- 6) Staff and Appointee Reports
- 7) Presentations for General Information
- 8) Items for Introduction
- 9) Items Under Study
- 10) Councilmember Reports and Open Discussion
- 11) Adjourn

The order of business at Work Session meetings may be altered by a majority vote of the number of City Councilmembers present. The President has the discretion to call matters on the agenda out of order in order to manage the meeting. In addition, the President will be responsible for establishing the order of and length of time allocated or any audio/visual presentations to be made at the meeting. (2000; 2011; 2013)

## **2-3. SPECIAL MEETINGS**

A. Special Meetings. The Council may meet at such other times as it may be called together by the President or the President at the written request of three (3) Councilmembers, upon twenty-four (24) hours written notice. The notice shall state the

time, place and purpose for which the meeting is called. Notice shall be sent to the Councilmembers, the Mayor, Council Appointees, the City Clerk, and the City Attorney. The notice shall be served at least twenty-four (24) hours prior to the time of such meeting. The notice shall be served by phone to each Councilmember at the phone number on record, and by leaving a copy at the municipal office of each Councilmember.

Notice may be supplemented through any other form of communication requested by a Councilmember. The City Clerk shall record and keep a journal of Special meetings, which shall be a public record. (1982; 2000; 2011; 2013)

B. Council may take official legislative action at Special Meetings if properly noticed.

## **2-4. AGENDA**

A. General (2013)

1) "Agenda packet" means agendas of meetings and any other documents that have been or are intended to be distributed to Council in connection with a matter anticipated for discussion or action at a public meeting.

2) The agenda for each Formal, Work Session or Special meeting must be posted in accordance with the Open Meetings Law with a minimum 24 hour notice. The City Clerk must maintain a record of such posting in a form approved by the City Attorney.

3) All matters to appear on the Regular Meeting agenda shall be filed with the City Clerk prior to the meeting.

4) All matters to appear on the Work Session agenda shall be filed with the City Council Administrator prior to the meeting.

5) Agenda packets will be published and made available for public inspection and copying in the Office of the City Clerk during usual business hours and via



the City's website at [www.springsgov.com](http://www.springsgov.com) by noon on the Friday prior to a Regular or Work Session meeting.

6) The City Council may not take action on any matter not properly noticed for the agenda unless an exception stated in the Open Meetings Law is applicable.

B. Deadlines (2013)

Materials should be filed at least ten (10) days prior to the meeting at which the item will be heard. Annually, the Office of City Council issues a schedule of due dates for agenda materials. Materials not filed by the established filing deadline shall be held over to the next Council meeting unless directed otherwise by the Council President.

C. Agenda Preparation (2013)

1) The President of the Council, with the assistance of the City Council Administrator, City Attorney and City Clerk shall prepare the agenda for all Council meetings except as noted for Executive Sessions.

2) Council Initiated Ordinances and Resolutions. Any Councilmember who wishes to introduce an ordinance or resolution for discussion shall submit the item to the President at least ten (10) days prior to the Work Session meeting at which the item will be discussed. Council shall give direction on how to proceed with the item: Work Session, schedule for consideration at a Regular meeting or take no action.

3) Council Appointees. Any Council Appointee who desires to bring a matter before Council, shall submit the item to the President at least ten (10) days prior to the scheduled Work Session meeting at which the item will be heard. Council Appointees shall also have the opportunity to speak at the Regular or Work Session meeting. (2000; 2011)

4) City Board or Commission and Citizens. Any City board or commission, via the board or commission chair, or a member of the public who would like Council to consider adopting a policy or revising or eliminating an existing policy, should contact the President or a Councilmember and discuss the request. The Councilmember may then forward the request to the President for placement on a Work Session agenda. Council then may provide direction on whether or not an ordinance or resolution should be initiated per the request.

D. Added Item Agenda

1) President. Following publication, the President may add items to the agenda for Regular Meetings provided that public notice of the items is given in accordance with legal requirements, and further provided that notice is given to Councilmembers in the same manner as required for Special meetings. Items added after publication of the agenda will be noticed by the City Clerk on an Added Item Agenda and taken up as part of the Regular Meeting agenda under "Added Item Agenda."

2) Councilmembers. Any matter considered by any Councilmember to be of an emergency nature may be suggested as an item to be added on the meeting day of Council provided the emergency nature is stated and the item is accepted by the affirmative vote of at least five (5) members.

E. Materials

1) General. Every item brought before Council shall be accompanied by a memorandum from the Council Administrator, appropriate department head or the City Attorney clearly explaining the purpose, financial implications, staff recommendation and alternatives; provided, however, that any member of Council may file an ordinance or resolution without such a statement.

a. Items scheduled for study at a Work Session should, wherever feasible, include any contract, ordinance or resolution in draft form.

b. Items for action at a Regular meeting shall include any contract, ordinance or resolution in substantially final form.

To the extent possible, every page of a draft document should state that the document is a draft. Final documents must be provided to Council and the City Clerk at the time Council is asked to take action. Final materials shall be provided to Council staff for distribution prior to the meeting.

2) Confidential Materials for Executive Sessions

Confidential materials are not included with the published agenda, but are submitted to Council in hard copy at the same time the agendas for Regular meetings and Work Sessions are distributed. Confidential materials shall include a brief memorandum addressing all items to be discussed in the Executive Session, an analysis of issues and a recommendation. In the case of legal issues, a legal analysis with pertinent case law or rulings should be included.

## **2-5. EXECUTIVE SESSIONS**

### **A. Conduct of Executive Sessions**

1) The City Council may call and may conduct one or more Executive Sessions during any Regular, Work Session, or Special meeting of the City Council.

2) The Council Administrator or City Attorney shall prepare the Executive Session agenda with the assistance of the President.

3) The City Council shall comply with applicable requirements of the Colorado Open Meetings Law, C.R.S. §§ 24-6-401 through 24-6-402<sup>2</sup>, in the calling and conduct of Executive Sessions. Prior to convening in Executive Session, the President shall announce the general topics of the Executive Session, as set forth below. The President shall poll Councilmembers and upon consent of two-thirds (2/3) of the quorum present, may hold an Executive

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<sup>2</sup> See City Charter § 3-60(d)

Session. No proposed policy, position, resolution, rule, regulation, or formal action shall be adopted at any Executive Session not open to the public. The following are among appropriate topics for closed Executive Session:

- a. Purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interests;
  - b. Conferences with the City Attorney or other attorneys for the City for the purposes of receiving legal advice on specific legal questions;
  - c. Matters required to be kept confidential by federal or state law or rules and regulations;
  - d. Specialized details of security arrangements or investigations;
  - e. Determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators;
  - f. Personnel matters. If the employee who is the subject of the Executive Session has requested an open session, or if the personnel matter involves more than one employee and all of the employees have requested an open session, the personnel matter may be considered in open session or withdrawn from the closed Executive Session agenda; or
  - g. Consideration of any documents protected by the nondisclosure provisions of the Colorado Open Records Act.
- 4) During an Executive Session, the President shall serve as the presiding officer, and the City Clerk shall serve as the recording secretary.
  - 5) The Councilmembers and participants shall have an affirmative obligation to immediately voice objection during the Executive Session regarding the

propriety of an Executive Session and the session's conformance with the Open Meetings Law. Upon the raising of an objection, all discussion or presentation shall cease until such time that the objection is addressed by the President as the presiding officer and the Council is admonished to conform to the appropriate policy or procedure for Executive Session or the objection is found by the President to be without merit.

6) Upon return of the Council to a Regular, Work Session or Special meeting or study session following an Executive Session, the President shall invite Executive Session participants to publicly voice objection on the record to the propriety of an Executive Session and the session's conformance with the Open Meetings Law. An objection may be publicly voiced only where the objector raised the objection during the Executive Session in accordance with subsection (5) above. An objection on the record shall not result in the disclosure of confidential discussion or information.

#### B. Attendance at Executive Sessions

1) Required Attendees. Required attendees at an Executive Session shall be limited to the legislative body of the City (all members of the City Council) present at the meeting unless a Councilmember is unable to attend due to a conflict of interest or excused absence. Other elected officials may be invited to attend when an Executive Session subject or topic pertains to a matter within the elected official's statutory duties or when the official's attendance is requested by the President.

2) Invitees to Executive Sessions. The President may, unless objection is raised by three or more members of the Council, authorize other persons to attend all or any part of an Executive Session. Invitees will customarily include the City Council Administrator, City Clerk and City Attorney. Administrative staff of the City, consultants, or other persons may be invited to attend if such persons will provide information or background information to the Council or otherwise participate in the session.

3) Invitees Participation to be Limited. Attendance by an invitee other than the City Council Administrator, City Attorney and City Clerk should be limited to portions of Executive Sessions at which the invitee's participation will be

necessary. The President should excuse an invitee from attendance upon the conclusion of the invitee's active participation.

#### C. Confidentiality of Executive Sessions

1) All discussion, proceedings, and information provided during an Executive Session shall be confidential and not disclosed by a participant to a third party unless disclosure is expressly authorized by this Policy or by direction of the City Council (e.g., disclosure of information by a designated negotiator). The Councilmember or other invitee shall not attend an Executive Session unless he or she intends to abide by the confidentiality of the Executive Session.

2) Invitees to an executive session (other than those invitees who routinely participate in Executive Sessions) should be instructed by the President prior to Executive Session attendance concerning the requirement of confidentiality.

3) Any Councilmember who does not abide by the confidentiality of the Executive Session will be subject to censure by the majority of Council as provided in City Charter § 3-50.

#### D. Recording of Executive Sessions

Executive Session discussions of the City Council shall be electronically recorded by the City Clerk for the Executive Session, except that:

1) Electronic recording shall not be required for two successive meetings of the City Council while the regularly used electronic equipment is inoperable; or

2) If, in the opinion of the attorney who is representing the City and who is in attendance at the Executive Session, all or a portion of the discussion during the executive session constitutes a privileged attorney-client communication, no record shall be required to be kept of the part of the discussion that constitutes a privileged attorney-client communication. Any electronic record of the Executive Session discussion shall reflect that no further record was kept of the discussion based on the opinion of the attorney representing the City, as stated for the record during the Executive Session, that the discussion constitutes a privileged

attorney-client communication. Any written minutes shall contain a statement from the attorney representing the City attesting that the portion of the Executive Session that was not recorded constituted a privileged attorney-client communication in the opinion of the attorney and a signed statement from the chair of the Executive Session attesting that the portion of the Executive Session that was not recorded was confined to the receipt of legal advice pursuant to C.R.S. § 24-6-402(4)(b).

#### E. Individual Recording and Written Notes

Persons in attendance during an Executive Session shall not take extensive written notes or engage in a transcription of discussion during any Executive Session with the exception of the recording secretary during a malfunction of the recording equipment. Persons in attendance may make abbreviated notations only as may be reasonably necessary to permit the person to later recall information such as dates, names, and other data needed to follow-up on actions subsequent to the Executive Session or to permit such person to participate in the discussion.

#### F. Public Access to Recording

No portion of the recording of an Executive Session shall be open for public inspection or subject to discovery in any administrative or judicial proceeding, except upon the consent of a majority of all members of the City Council, or as provided in C.R.S. § 24-6-402(2)(II)(C) and section 24-72-204(5.5), or as provided in Subsections I or J of this rule.

#### G. Councilmember Access to Recording

A member of the City Council may, without prior approval or consent of the City Council, listen to a recording of an Executive Session in the following circumstances and in accordance with the following procedures:

- 1) The Councilmember must have either attended the Executive Session or have been properly excused from attendance at the meeting during which the Executive Session was held.

2) The Councilmember shall contact the City Clerk to arrange a mutually available date and time for listening to the Executive Session recording. The City Clerk shall cause the tape recording to be duplicated. The City Clerk shall provide to the Councilmember the duplicated tape together with access to a private room at the City Administration Building, 30 S. Nevada Avenue, 80903, suitable for secure and confidential listening by the Councilmember. The City Clerk shall keep a record of all authorized persons who listen to recordings of Executive Sessions.

3) No person may accompany a Councilmember during the listening of the Executive Session recording except for: a) other Councilmembers who are also qualified to listen to such recording pursuant to subsection (1) above; b) the Mayor, if the Mayor was in attendance during the Executive Session; and c) the City Attorney, or City Attorney's designee if the City Attorney or designee was in attendance during the Executive Session.

4) No Councilmember may copy, record, or otherwise transcribe all or any portion of an Executive Session recording.

5) No Councilmember may remove the recording of an Executive Session from the private room designated for listening of the recording except for the purpose of returning the recording to the City Clerk or the Clerk's designee.

#### H. Administrative Access to Executive Session Recordings

The Mayor and/or the City Attorney may, without prior approval or consent of the City Council, listen to a recording of an Executive Session only in the following circumstances and in accordance with the following procedures:

1) The Mayor or City Attorney shall have attended the Executive Session; or

2) The review of the recording is necessary for the purpose of performing the City Attorney's official functions.



Neither the Mayor nor City Attorney may copy, record, or otherwise transcribe all or any portion of an Executive Session recording. No person may accompany the Mayor or the City Attorney during the listening of the Executive Session recording.

I. Council May Authorize Access to Executive Session Recordings

Nothing in this rule shall limit or preclude the City Council from authorizing access to a recording of an Executive Session, or preparation of a transcript thereof, except that such authorization shall require the consent of a majority of all members of the City Council.

J. Council May Prohibit Access

Notwithstanding any provision of this rule, the City Council may by a majority vote of a quorum present prohibit access to an Executive Session recording at any time.

K. Retention of Executive Session Recording

The recording of an Executive Session shall be retained for not less than ninety (90) days after the date of the Executive Session. The City Clerk shall provide for a procedure to manage retention of Executive Session recordings and destruction thereof within a reasonable time after the expiration of such ninety (90) days, in accordance with this rule. (1982; 1987; 2000; 2011; 2013)

**2-6. PUBLIC PARTICIPATION**

A. Citizen's Right to Address Council. Persons including Councilmembers shall be permitted to address the Council on topics relevant to Council business during the Citizen Comment period of the meeting and during legislative hearings.

B. Manner of Addressing Council. A member of the public desiring to address the Council shall sign up to speak, including his or her name, address, group affiliation (if any) and the agenda topic on which he or she desires to speak. The presiding officer, or designee, may group related comments. When called upon by the presiding officer or designee, the person shall step to the lectern, state his or her name, address, and group affiliation (if any) and speak clearly into the microphone, unless authorized otherwise by the presiding officer. The public may only approach the dais with the permission of the President.

C. Time Limits

1) Citizen Comment Period. Members of the public shall be limited to three (3) minutes speaking time at the Citizen Comment. The President may modify the time limit or limit comments to a fixed time period, subject to a determination otherwise by approval of an appropriate motion by Council.

2) Legislative Items. Members of the public shall limit testimony to three (3) minutes per person. (The President may modify the time limits listed.) The President may limit comments on any one subject under Council consideration to a fixed time period, subject to a determination otherwise by approval of an appropriate motion by Council.

D. Remarks to be Germane. Public comments must be directed to the subject under consideration. The President shall rule on the germaneness of public comments. Abusive, personal, impertinent, irrelevant, slanderous or profane remarks, or loud, threatening, personal or abusive language shall not be allowed.

E. Council Questions. A member of the Council, before or during the consideration of any matter, or in the course of a hearing, may request and receive information, explanations or recommendations of any City employee, or any person speaking.

F. Enforcement. Any person who makes threatening, abusive, personal, impertinent, irrelevant, slanderous or profane remarks which disrupt, disturb or otherwise impede the orderly conduct of the Council meeting, or who otherwise engages in any other disorderly conduct which disrupts, disturbs, or otherwise impedes the orderly conduct of any Council meeting, shall be upon the direction of the President or a majority of the Council, barred from further attendance at that Council meeting. In

that event, it would be the duty of a peace officer, upon the request of the President, to issue such commands and take such actions as may be necessary to eliminate the disruptive conduct and restore peace and order to the proceedings.

## **PART 3 - COUNCIL PROCEDURE**

### **3-1. QUORUM**

The President, or in the President's absence, the President Pro Tem, shall take the Chair at the hour appointed for the Council to meet, and shall immediately call the members to order. The City Clerk shall enter upon the Journal of the meeting the names of the members present. Five (5) members of the Council shall constitute a quorum to do business. In the absence of a quorum at the time appointed for a meeting, the members present shall adjourn the meeting to another designated time. (1982; 2000; 2011)

### **3-2. ATTENDANCE (2013)**

#### **A. General**

- 1) Councilmembers are expected to attend meetings and stay in attendance during each meeting.
- 2) No member may be excused from attending a Council meeting without the permission of the Council (Charter § 2-30(b)(4)).
- 3) No member shall be excused from attendance at a City Council meeting except for good and valid reasons.
- 4) No member should leave a City Council meeting while in session without advising the presiding officer.
- 5) The Council may compel the attendance of members (Charter § 3-50).

#### **B. Procedure for Excusal**

1) Councilmembers shall be required to contact the President no later than 12:00 p.m. the day of the meeting requesting he/she be excused from the meeting and stating the reason for the absence. Failure to comply, except in cases of emergency, shall result in an unexcused absence.

2) The President shall inform the Council during the Call to Order of the excused members and the members shall be considered excused unless a Councilmember calls for a vote on excusal.

C. Forfeiture of Office. If a Councilmember fails to attend three (3) consecutive scheduled meetings of the Council without being excused by the Council, the office of the Councilmember shall be forfeited. (Charter § 2-30(b)(4)).

### **3-3. SEATING AND OFFICE ARRANGEMENTS**

Members shall occupy the respective seats in the Council Chamber and offices in City Hall as assigned to them by the President of the Council. (2000; 2011)

### **3-4. ADDRESSING THE PRESIDENT OF THE COUNCIL**

Members speaking to a question or making a motion shall address the President as "Mr. or Madam President," and the President shall thereupon pronounce the name of the member entitled to the floor. Members addressing Council shall confine themselves to the question under debate. (1982; 2000; 2011)

### **3-5. PERMISSION REQUIRED TO ADDRESS COUNCIL**

Members of the audience may address the Council upon recognition by the President. The decision of the President may be overruled by a vote of a majority of the Council present. (1982; 2000; 2011)

### **3-6. APPEALS FROM DECISION OF THE PRESIDENT**

The President shall preserve decorum and decide all questions of order, subject to appeal to Council. In case of an appeal from a ruling of the President, the question shall be: "Shall the decision of the President stand as the decision of the Council?" If a member violates the Rules of Council, the President shall call such member to order, in which case the member shall be silent, unless permitted to explain. (1982; 2000; 2011)

### **3-7. VOTING**

A. The Council shall act only by ordinance, resolution or motion. Every Councilmember present when a question is put shall vote on the question. Every ordinance, resolution or motion, except those providing for the expenditure of money, shall require the affirmative vote of the majority of the membership of the Council present for approval and passage. Every ordinance or resolution providing for the expenditure of money shall require the affirmative vote of five (5) members upon final passage. (1982; 2000; 2011)

B. Whenever a vote is taken, each Councilmember present shall vote "aye" or "nay." After all members have voted, the President shall cause the vote of the Council to be flashed upon a recording board, which board shall be plainly visible to the Council and others present in the Council Chamber. The City Clerk shall then record the vote of each member of the Council in the Journal of Council's proceedings before passing on to the next order of business. (1982; 2000; 2011)

C. In the event the electronic voting machine becomes inoperative during any meeting, or the meeting is at a location without an electronic voting machine, the City Clerk shall call the roll in alphabetical order with the same Councilmember being called first throughout the meeting. The City Clerk shall record the oral vote of "aye" and "nay" of each Councilmember upon the Journal of the Council's proceedings. (1982; 2000)

### **3-8. VOTE OF ABSENT COUNCILMEMBER**

It shall be improper for any Councilmember to state or attempt to state the vote or sentiments of any absent Councilmember or for the City Clerk to make any reference in the Journal to such an attempt. (1982; 2000)

### **3-9. DIVISION OF A QUESTION**

On demand of any member of Council, a question under consideration covering two (2) or more points shall be divided where the question allows such division. (1982; 2000)

### **3-10. DISSENTS AND PROTESTS**

Any member shall have the right to express dissent from or protest against any ordinance or resolution of Council, and have the reason therefore entered upon the Journal. (1982; 2000)

### **3-11. TIE VOTES**

In case of a tie vote on any proposal, the proposal shall be considered lost/failed. (2000)

### **3-12. UNANIMOUS CONSENT - EXPEDITING COUNCIL BUSINESS**

Since these rules are designed for the protection of the minority, they need not be strictly enforced by the President except as to voting on ordinances and resolutions in formal Council sessions. When there appears to be no opposition to a matter, the formality of voting can be avoided by a member's requesting unanimous (or general) consent to a proposal or by the President's asking if there is any objection to a proposal, and if there is none, announcing the result as "unanimous consent" to the matter. (1982; 2000; 2011)

### **3-13. PROCEDURE IN ABSENCE OF RULE**

In the absence of a rule to govern a point of procedure, "Parliamentary Law for Nonprofit Organizations" shall govern Council's actions. (1982; 2000)

### **3-14. ABSENCE DURING MEETING**

Councilmembers may be excused from attending all or a portion of a Council meeting with the permission of the President. After the vote for which a member is absent, the President shall announce the results of the vote and the names of the excused members. (2000; 2011)

### **3-15. MOTIONS TO BE STATED BY THE PRESIDENT - WITHDRAWAL**

When a motion is made and seconded, it may be restated by the President or by the City Clerk before debate and again before the final vote. Any member may demand that it be reduced to writing. (1982; 2000; 2011)

### **3-16. SPECIAL MOTIONS**

These motions must be disposed of immediately:

A. Motion Objecting to Consideration - This motion must be made immediately after an item is called to the attention of Council by the City Clerk. This motion enables the Council to avoid a main motion that would be undesirable to consider at the time. It does not require a second, is not debatable, is not amendable, and requires a two-thirds (2/3) vote of those present. (1982; 2000; 2011)

B. Motion to Withdraw - A mover of any motion may withdraw the motion as a matter of right so long as the consent of the second is first obtained. (1982; 2000)

C. Motion to Suspend Rules - The purpose of this rule is to enable Council to set aside one or more of its procedural rules that would otherwise prevent consideration of a certain action. A motion to suspend the rules suspends only those rules which specifically interfere with the consideration of the particular action involved. The rules are suspended only temporarily and are automatically reactivated after the proposed action has been considered. No rules or law set forth in the City Charter or City Code may be altered by suspending the rules. A motion to suspend rules is not a debatable motion and may not be amended. This motion requires a majority vote of the Council present. (1982; 2000; 2011)

### **3-17. PARLIAMENTARY PROCEDURE FOR MOTIONS**

When an item is before Council, no motion shall be entertained except as listed according to priority (highest to lowest): (1982; 2000)



- A. Motion to Adjourn - Requires a second, is not debatable, is not amendable, and requires a majority vote of those present. (1982; 2000)
- B. To Postpone Temporarily - Requires a second, is not debatable, is not amendable, and requires a majority vote of those present. (1982; 2000)
- C. To Close Debate - Requires a second, is not debatable, is not amendable, and requires a two-thirds (2/3) vote of those present. (1982; 2000; 2011)
- D. To Limit or Extend Debate - Requires a second, is debatable as to type and time of limitations, is amendable as to time and type of limitations, and requires a two-thirds (2/3) vote of those present. (1982; 2000; 2011)
- E. A Motion to Postpone to a Definite Time - Requires a second, is debatable as to reasons for postponement and date of reconsideration, is amendable as to date of reconsideration, and requires a majority vote of those present. (1982; 2000)
- F. Motion to Refer - Requires a second, is debatable as to the referral, is amendable as to the referral, and requires a majority vote of those present. (1982; 2000)
- G. Motion to Amend - Requires a second, is debatable unless applied to an undebatable motion, is amendable, and requires a majority vote of those present. (1982; 2000)
- H. Motion to Postpone Indefinitely - Requires a second, is debatable, is not amendable, and requires a majority vote of those present. (This motion is not applicable to quasi-judicial items.) (1982; 2000)
- I. Motion to Reconsider - Any action taken by the City Council is subject to reconsideration if the motion to reconsider is made by a Councilmember who voted with the majority. The motion requires a second, is debatable, is not amendable, and requires a majority vote of those present. This motion can be made only at the same meeting or at the next formal meeting of City Council.

1) If the motion to reconsider is made at the same meeting at which an action was taken, the motion must be made by a member of the Council who voted with the majority and may be seconded by any other member. If approved, the motion is adopted, and the action is reconsidered and Council can proceed with discussion and vote on the action that is reconsidered. If the motion to reconsider is not approved, the action shall not be reconsidered.

2) If the motion to reconsider is made at a meeting other than the meeting at which the action was taken, a member of the Council who voted with the majority must submit request in writing to the President no later than noon of the third day after the original action and request that the motion to reconsider be placed on the next Regular City Council agenda. The request shall state that Councilmember (Name) is going to move to reconsider Item No. of the Regular City Council Agenda of (Date). If the motion to reconsider is voted upon and a majority of the City Council has voted to reconsider an action, the reconsideration can be held immediately, if the agenda has provided appropriate notice that the reconsideration may be held at that meeting, or it can be held at a later Council meeting as designated by the City Council. In no event shall a motion to reconsider be made or considered more than thirty (30) days after the date the action to be reconsidered was originally taken by Council. (1982; 1986; 1991; 2000; 2011; 2013)

J. Main Motions - Requires a second, is debatable, is amendable, and requires a majority vote of those present. Every ordinance providing for the expenditure of money requires the affirmative vote of five (5) members upon final passage. (1982; 2000; 2011)

In making any of the above motions, the motion maker may not interrupt another speaker. (1982; 2000)

### **3-18. PROCEDURES FOR THE PASSAGE OF AN ORDINANCE OR RESOLUTION**

A. Every ordinance finally passed by the Council shall be presented to the Mayor within forty-eight (48) hours thereafter for final adoption. If the Mayor approves the ordinance, the Mayor shall finally adopt it by signing it within five (5) days after presentation. If the Mayor disapproves or exercises the veto, the ordinance shall be returned to the City Clerk in accord with City Code § 1.2.108, within five (5) days with the Mayor's objections in writing. The Mayor's written objections may be transmitted

electronically or by any other means. If six (6) of the members vote to “over-ride” or pass the ordinance over the Mayor’s veto, it shall become a finally adopted ordinance notwithstanding the objections of the Mayor. If the Mayor does not return the ordinance with written objections in the specified time period, it shall become finally adopted as if the Mayor had approved it five (5) days after the presentation to the Mayor. (2011)

B. In any ordinance appropriating funds, the Mayor may disapprove or veto specific line items without disapproving the entire ordinance. After disapproval of specific line items, the ordinance shall be returned to the Council to complete the over-ride process as outlined above as to each line item disapproved. (2011)

C. Notwithstanding the foregoing, the Mayor shall not have the power to disapprove by veto the following types of ordinances. This limitation applies only to the following specifically identified ordinances: an ordinance accomplishing any quasi-judicial act; an ordinance approving bonds to be issued by any City enterprise; an ordinance pertaining to Article VI, “Utilities” of this Charter; an ordinance submitting a Charter amendment, referring an initiated ordinance or Charter amendment, or referring a Charter convention question to the qualified electors. (2011)

D. The City Clerk shall, with the Mayor, sign and attest all ordinances and resolutions. (2011)

## **PART 4 - UTILITIES PRICING AND TARIFF HEARING PROCEDURE**

The following rules shall govern Council hearings concerning the adoption of resolutions which change the pricing or tariff for any regulated utility service of Colorado Springs Utilities (Utilities):

### **4-1. HEARING PROCESS**

#### **A. Pre-Hearing Procedures**

1) The process to change pricing or tariffs for any regulated utility service shall commence with the filing by Utilities of a resolution identifying the proposed changes, accompanied by the proposed tariffs, at a regular or special meeting of Council. Council shall establish a date for a public hearing at that meeting, which hearing shall be no less than thirty (30) calendar days nor more than sixty (60) calendar days from the date of the notice to customers of the proposed resolution.

2) Utilities shall be responsible for notifying customers of proposed changes in pricing or tariffs for any regulated utility service as required by the City Code and Colorado law. Utilities shall place one copy of the Utilities filing and any written documents provided to Council to explain the proposed resolution on file in the office of the City Clerk. These documents shall be available for public inspection.

3) Before or during any public hearing, Council may be assisted by legal, technical or other professional personnel as it deems necessary. If Council retains a professional consultant or advisor, the consultant or advisor shall provide a written report to Council, Utilities and any customer who has filed a notice of intent under subsection A.8 below at least ten (10) working days prior to the public hearing. A copy shall also be filed with the City Clerk and shall be available for public inspection.

4) If the change in pricing is supported by a cost of service study, Utilities shall provide a draft copy of the proposal and cost of service study to the City Auditor at least thirty (30) calendar days prior to the filing. If the proposed

changes do not require a supporting cost of service study, Utilities shall provide a draft of the proposal to the City Auditor seven (7) calendar days prior to the filing of the proposed resolution. If the City Auditor chooses to file a report on the proposal, such report shall be filed with the City Clerk and Utilities at least five (5) calendar days prior to the public hearing.

5) Drafts of the proposed resolution and tariff sheets will be provided to the City Attorney seven (7) calendar days prior to filing with Council.

6) Subsequent to the Utilities filing and before the public hearing, Utilities may make the following changes to its filed proposal provided that copies of any changes are filed with the City Clerk and sent to customers who have notified the City Clerk of their intention to present witnesses: a) minor corrections or administrative clarifications to the Utilities' filing; b) supplements containing additional information necessary or appropriate to substantiate the filing; c) modifications which reduce the amount of the change requested.

7) Prior to the public hearing, no increase in the prices as noticed may be proposed without notification to all customers who notified the City Clerk of their intention to present witnesses at the hearing and without publication of such changes at least once in a newspaper of general circulation within the City. Material supporting any proposal to increase the prices as previously noticed must be filed with the City Clerk and held open for public inspection.

8) The representative or attorney of a customer who wishes to present testimony by witnesses other than the customer must file a notice of intent with the City Clerk disclosing the names of witnesses, a short summary of testimony and a copy of all exhibits and other documentation to be presented to Council no less than seven (7) working days prior to the public hearing. A copy of all such material must be filed at the same time with the Utilities' Pricing Department Manager.

9) There is no formal right to discovery, but parties are urged to share information in order to expedite the proceeding. Parties are also encouraged to meet in advance of the hearing to narrow or resolve the disputed issues between them. Nothing shall prohibit the Utilities from meeting with customers outside of the hearing process to discuss proposed changes in pricing or tariffs and to solicit their input. (2011)

## B. Hearing Procedures

1) Council shall hear the matter in its legislative capacity. The Colorado Court Rules of Civil Procedure and the Rules of the Public Utilities Commission of the State of Colorado shall not apply to the proceedings. Council is not bound by the rules of evidence. Council may take notice of general, technical or scientific facts, or of laws, regulations or court decisions without the necessity of presentation of evidence.

2) At the public hearing Utilities shall make a presentation to explain the filing and the need for changes in pricing or tariffs. Any customer shall be allowed to present testimony and/or exhibits relevant to the proposed changes during that portion of the public hearing when public comment is allowed.

3) At the public hearing, Council may question witnesses and may allow such questioning, rebuttal or argument by Utilities, and by customers, their attorneys or representatives, as Council deems appropriate. Council may limit the time for presentation by Utilities, customers and their attorneys or representatives, as it deems appropriate. Testimony must be relevant to the issues being heard and shall not be repetitious. If the testimony or exhibits are repetitious, Council may require all similarly interested customers to designate a spokesperson or may appoint one for them.

4) No party shall have a right to present written briefs during or at the conclusion of the public hearing, unless requested by Council.

5) Pursuant to the legal requirement that pricing and tariff decisions must be based on information contained "on the record", once the proposed resolution has been filed if Councilmembers have communications about matters subject to decision outside of the public hearing such communications are considered to be "ex parte communications". When an ex parte communication occurs, the pertinent details of the communication should be noted during the public hearing. In recognition of the fact that Councilmembers also serve on the Utilities Board, and that Councilmembers/Board members and members of Utilities staff frequently communicate on a number of issues, if an ex parte communication occurs between a Councilmember and a staff member of Utilities, the staff

member will reduce the pertinent elements of the communication to writing. The writing will be distributed to all Councilmembers and customers who have filed notices of intent, and shall be placed on file with the City Clerk as part of the record of the proceeding.

C. Post-Hearing Procedures

1) At the conclusion of the public hearing, Council shall identify issues for deliberation and decision. Council may adjourn to another time to complete its deliberation and make a decision on the issues. Council may revise any proposed pricing or tariff as a result of the information presented at the public hearing. All decisions made by Council shall be based on the record.

2) After its deliberations, Council shall instruct the City Attorney to draft a proposed Decision and Order. The Decision and Order shall incorporate a description of the history of the proceeding, the issues identified by Council for deliberation, and Council's findings on the issues.

3) The written Decision and Order of Council shall be incorporated in a Resolution of Council revising pricing or tariffs. The Decision and Order shall be adopted in open public session and shall be placed on file with the City Clerk. It shall identify the date on which changes in pricing or tariffs were approved and the date on which they shall become effective.

4) All prices, as established by Council in these proceedings, shall meet the requirements of the City Code. All prices shall be designated in tariff sheets and shall remain on file in the City Clerk's Office and the Utilities Pricing Department.

5) No party shall have the right to request rehearing, reargument or reconsideration of the decision of Council.

6) The Utilities filing and supporting documentation, all subsequent documents submitted to Council or the City Clerk by Utilities, customers or their representatives, the report of the City Auditor, the presentations to Council by any party, all Council deliberations, its Decision and Order, and the Resolution adopted, shall constitute the record of these proceedings.

## **4-2. EXPEDITED HEARING PROCESS FOR INSTANCES OF GOOD CAUSE**

### **A. Instances for Which Good Cause Exists (2011)**

1) Certain pricing and tariff changes may be made, or refunds authorized, without meeting the notice and public hearing requirements imposed by Section I of this Part 4, provided that good cause exists. In the following instances, good cause exists:

a. Changes to the gas cost adjustment to reflect increased or decreased gas costs.

b. Changes to the electric cost adjustment to reflect increased or decreased costs of the fuel used for electric generation or purchased power costs.

c. Refunds to customers.

d. Changes to other fees, rates or charges that are not within the control or discretion of the City or the Utilities.

e. Changes to the pricing of water necessary to avoid a water shortage.

f. Tariff changes which have no adverse impact on customers.

2) Council may find that good cause exists in other instances, and must state the nature and circumstances of the good cause in the resolution resulting from its action.

### **B. Process for Expedited Hearing**



- 1) Proceedings for consideration of matters for which good cause exists shall be conducted in a legislative manner as a Council item.
  
- 2) When Utilities proposes changes to the gas cost adjustment or the electric cost adjustment, drafts of the proposal including the proposed resolution and tariffs will be provided to the City Auditor and the City Attorney seven (7) calendar days prior to filing the proposal with Council. If the City Auditor finds that the proposed adjustment is adequately supported and conforms to the requirements of the cost adjustment tariffs, the City Auditor will provide such findings in a letter to the Council that will be included in the filing by Utilities. If the proposed changes to the gas cost adjustment or the electric cost adjustment are supported by a letter from the City Auditor, the resolution effecting the change will be placed on the Council's Consent Calendar. (2011)
  
- 3) The resolution adopting changes shall be considered an Order of Council, shall specify the changes to be made and shall state: a) the circumstances which establish good cause and necessitate the change being made under these procedures, b) the effective date of the changes, and c) the manner in which the changes shall be published. (2000, 2004; 2011)

## **PART 5 - BOARDS, COMMITTEES, AND COMMISSIONS**

### **5-1. COUNCIL BOARDS, COMMITTEES, AND COMMISSIONS**

Council boards, committees, and commissions are generally advisory in nature to assist Council and staff by preparing recommendations for Council decision. Board, committee, and commission members may not speak or act for Council except when formally given such authority for specific purposes. Council boards, committees, and commissions cannot exercise authority over staff without specific authority from the Council. Members of boards, committees, and commissions shall be selected in accord with the provisions of the ordinance creating the board, committee, or commission from within El Paso County and shall serve without compensation. Members of boards, committees, and commissions shall not serve with a member of their household or immediate family or with a member that is an employer/employee on the same board, committee, or commission. If a board, committee or commission member fails to attend three (3) consecutive scheduled meetings of the board, committee or commission without being excused by the board, committee or commission, the member's position shall be forfeited. (2000, 2002; 2011)

### **5-2. PRESIDENT'S BOARDS, COMMITTEES, AND COMMISSIONS (2011)**

The President may appoint special boards, committees, or commissions composed of Councilmembers and/or citizens to assist in the study of items before the Council. A working group so appointed shall serve until the matter is disposed of by the Council unless sooner terminated by the President. (1982; 2000; 2011)

### **5-3. ALTERNATES**

Council may appoint alternate members to its boards, committees, and commissions. As alternates, these individuals are appointed to gain experience and observe that working group. The alternates shall not: 1) participate in the discussion of the working group; 2) participate in Executive Sessions; 3) vote in any matter as an alternate; or 4) substitute in the absence of a regular member, unless specifically provided by ordinance creating the board, committee, or commission. (2000; 2011)

### **5-4. POWERS**

No committee shall have the power to employ any person for, or on behalf of, the City, or incur any expense, unless specifically authorized by Council. (2000; 2011)

**PART 6 – RESERVED**

## **PART 7 - PUBLIC HEARINGS**

### **7-1. GENERAL PROCEDURES FOR LEGISLATIVE PUBLIC HEARING**

A. A legislative public hearing shall be conducted to provide a reasonable opportunity for all interested parties to express themselves, as long as the testimony or evidence being given is related to the purpose of the public hearing. Members for the public shall limit testimony to three (3) minutes per person. The President has the authority to limit debate to a reasonable length of time to be equal for both positions, subject to a determination otherwise by action of the entire Council on motion. (2011)

#### **B. Order of Legislative Items**

Each legislative item shall be presented in the following order.

- 1) City staff will present the item with a recommendation.
- 2) Supporters of the request will be heard.
- 3) Opponents of the item will be heard
- 4) The Council will discuss the item and render its decision.

C. Any person speaking may be questioned by a member of Council. The Council, at its discretion, may establish a reasonable time limit for each speaker. (2011)

D. The President shall rule upon all disputed matters of procedure, unless, on motion duly made, the President is overruled by a majority vote of Councilmembers present. (2011)

E. The Colorado Rules of Evidence shall not apply, and Council may receive petitions, exhibits and other relevant documents without formal identification or introduction.

F. Exhibits to Council - all parties who desire to submit exhibits to the Council for the purposes of inclusion in the record shall submit the original exhibit and twelve (12) copies to the City Clerk who shall mark the exhibit and distribute it to the Council. One (1) copy of each exhibit that may be displayed so that all of Council can simultaneously observe it shall be given to the City Clerk. If exhibits are electronic, a disk must be given to the City Clerk. The City Clerk shall hold all exhibits until time for appeal has expired, and the exhibits shall then be disposed of, unless the person submitting the exhibit picks up such exhibit from the Clerk within ten (10) working days after time of appeal has expired. (1982; 2000; 2011)

## **7-2. GENERAL PROCEDURES FOR QUASI-JUDICIAL MATTERS**

A. When Council sits as a quasi-judicial body in rezoning applications, appeals from the Planning Commission, and other matters in which Council is restricted to making findings of facts on evidence presented, no member of Council should receive or solicit comments from any person(s) regarding the matter pending before the Council prior to the formal public hearing at which the matter is presented. (1982; 2000; 2011)

B. In appeals from decisions of the Planning Commission and Hearing Officer, Council reserves the right to limit the hearings on appeal to matters raised on appeal. (2011)

C. The order of the hearing for items appealed from or considered by the Planning Commission shall be as follows:

- 1) City staff shall have available a copy of any required public notice as published in the newspaper, a copy of any required affidavit of posting of public notice, all application documents for the proposed project, and other materials as appropriate. City staff shall give an overview of the project and summarize the Planning Commission's action for the record.

- 2) The appellant, if different from the applicant, shall describe the nature of the appeal and present evidence. (2011)
- 3) The applicant shall present evidence in support of the project. (2011)
- 4) Any others in support of the applicant shall present their evidence.
- 5) Those opposing the application shall present evidence. (2011)
- 6) A short rebuttal by applicant shall be limited to issues raised in preceding testimony or argument. No new evidence shall be presented during rebuttal. (2011)
- 7) Final comments from the applicant or other parties are allowed with permission of the President only. (2011)
- 8) Final comments from City staff and staff recommendation shall conclude the public hearing, which is then closed.
- 9) All questions will be directed through the President who will then direct the appropriate person to respond. (2011)
- 10) Council may then make its decision on the matter or delay its decision. If final action is not taken at the public hearing, the President will advise the audience when the matter will be considered. Councilmembers not present for all of the public hearing will be allowed to vote on the matter only if they carefully review all applicable minutes and other documentation prior to voting. (2011)
- 11) Exhibits to Council - all parties who desire to submit exhibits to the Council for the purposes of inclusion in the record shall submit the original exhibit and twelve (12) copies to the City Clerk for distribution to the Council. The City Clerk shall mark one (1) copy of the exhibit with the item number, date and speaker name and include the exhibit with the official record. One (1) copy of each exhibit

that may be displayed so that all of Council can simultaneously observe it shall be given to the City Clerk. If exhibits are electronic, a disk must be given to the City Clerk. The City Clerk shall hold all exhibits until time for appeal has expired, and the exhibits shall then be disposed of, unless the person submitting the exhibit picks up such exhibit from the Clerk within ten (10) working days after time of appeal has expired. (1982; 2000; 2011)

D. The order of the hearing for items appealed from a decision of the Hearing Officer shall be as follows:

1) City staff shall have available a copy of any required public notice as published in the newspaper, a copy of any required affidavit of posting of public notice, the record including the transcript of proceedings and evidence before the Hearing Officer. City staff should summarize City Planning's recommendation and the Hearing Officer's recommendation for the record.

2) The appellant may present argument in support of the appellant's position.

3) A person or entity who has not appealed may present argument in support of that person's or entity's position.

4) A short rebuttal by the applicant shall be limited to issues raised during the preceding argument.

5) Council shall review the record including the transcript of proceedings and evidence before the Hearing Officer, and shall determine whether or not there is substantial evidence in the record to support the decision of the Hearing Officer.

6) If there is substantial evidence in the record to support the Hearing Officer, then Council shall affirm such decision of the Hearing Officer.

7) If there is no substantial evidence in the record to support the Hearing Officer, then the Council may reverse the decision of the Hearing Officer, or remand the matter back to the Hearing Officer for further proceedings.



8) No new evidence shall be submitted to the Council unless a majority of the Council determines that such evidence could not have been reasonably presented at the time the matter was heard before the Hearing Officer.

9) If the Council decides to hear such new evidence, it may hear the new evidence or remand the matter back to the Hearing Officer for further proceedings.

10) Council shall have the discretion to modify, reject, or add to the conditions or record established by the Hearing Officer with respect to any matter before it on appeal.

11) All questions will be directed through the President who will then direct the appropriate person to respond.

12) Council may then make its decision on the matter or delay its decision. If the final action is not taken on appeal, the President will then advise the audience when the matter will be considered. Councilmembers not present at the public hearing will be allowed to vote on the matter only if they have reviewed the record including the transcript of proceedings and evidence before the Hearing Officer and all applicable minutes and other documentation prior to voting.

### **7-3. GENERAL PROCEDURES FOR CONFIRMATION OF MAYORAL APPOINTEES (2014)**

A. The City Council is required by City Charter § 4-40(f) to confirm the Mayor's appointment of individuals to serve in the following positions: City Clerk, City Attorney, Municipal Judges, Chief Financial Officer, Police Chief, Fire Chief, Public Works Director, Parks Director, Community Development Director, Airport Director, and any other director of a City Department division, office, agency or enterprise if the Mayor's appointment authority is set forth by ordinance (collectively, "appointee"). In considering an appointee for confirmation, City Council should limit their review to the appointee's academic credentials, training and experience, and qualifications or ability to perform the essential functions for the position for which the confirmation is sought. The confirmation process is not intended as a review of the appointee selection process; the appointee's qualifications relative to other candidates considered but not selected for

appointment; or matters not directly relevant to the appointee's ability to perform the essential functions of the position. Additionally, as time is generally of the essence, City Council should strive to complete the confirmation at their next Regular meeting, if at all possible.

B. If the Mayor desires Council representation on the selection committee, the Council President, in consultation with the Mayor, shall select and appoint one or two Councilmembers to serve on the Mayor's appointee candidate selection committee. The Councilmembers duties on the selection committee shall be at the discretion of the Mayor. The Councilmembers shall serve at the discretion of the Mayor. The Councilmember(s) serving on the selection committee shall keep confidential the details of candidate applications, resumes, curriculum vitae, references, and background information for those candidates who are not selected as the Mayor's appointee. The details of the Mayor's appointee's application, resume, curriculum vitae, references, and background information may be released by the administration to the entire Council upon commencement of the confirmation process.

C. Upon the Mayor's notification to Council that an appointee has been selected, or that an appointment has been made or will be made following confirmation, the Council shall commence the following confirmation procedure:

- 1) The Mayor may notify Council by contacting the Council President in person or by telephone, or by delivering a written or emailed request for confirmation of the Mayor's appointee to the Council President.

- 2) Within two (2) business days of the Mayor's notice to Council, the Mayor or the Mayor's representative shall forward to Council the advertised position description for the office the appointee will hold, the appointee's application, resume, curriculum vitae, references, background information, and the proposed salary ("confirmation packet"). The information contained in the confirmation packet shall be clearly marked so that Councilmembers can easily determine which documents will be part of the confirmed appointee's personnel file as that term is defined by the Colorado Open Records Act, C.R.S. § 24-72-201, et seq. ("CORA"). Confirmation must commence within thirty (30) days after receipt of the confirmation packet

- 3) If one or more Councilmembers served on the Mayor's selection committee for the appointee, the Councilmember(s) shall be available to discuss

one-on-one with other Councilmembers the appointee's academic credentials, training and experience, and qualifications or ability to perform the essential functions for the position for which the confirmation is sought.

4) Within five (5) business days of receipt of the confirmation packet, any Councilmember may request additional information about the selection process, the appointee's qualifications or stakeholder recommendations by forwarding the request to the Council President. The Council President shall forward the request to the Mayor. The Mayor may provide the requested additional information.

5) Within five (5) business days of the Council's receipt of the confirmation packet, the Council President shall propose a confirmation schedule to the Mayor that may include, but is not limited to, the following events prior to formal consideration of the confirmation request at a Regular meeting: individual or group interviews of the appointee, a public input process, or a Work Session discussion. As time is generally of the essence, City Council should strive to complete the confirmation at their next Regular meeting, if at all possible. Regardless, the proposed confirmation schedule shall ensure the confirmation process concludes no more than ninety (90) days following the date of receipt of the confirmation packet.

6) The Mayor may request changes to the President's proposed confirmation schedule to meet administrative or operational needs of the City. To the extent possible, the President should accommodate the Mayor's request and modify the proposed confirmation schedule accordingly. When final, the Council Administrator shall distribute the confirmation schedule to the Council and coordinate the confirmation events set forth in the confirmation schedule.

D. Council Action.

1) Events of Confirmation Prior to Formal Consideration.

a. Councilmembers shall review and be familiar with the information contained in the confirmation packet.

b. If the confirmation schedule includes individual or group interviews of the appointee, Councilmembers shall make every effort to meet with the appointee in person. If a Councilmember is unable to meet with the appointee in person, the Councilmember shall make arrangements to speak with the appointee individually by phone. Travel costs for out-of-town appointees shall be paid by the Administration.

2) Formal Consideration of the Confirmation Request.

a. Confirmation shall be considered as New Business at a Regular or Special meeting of the Council.

b. The Mayor or the Mayor's representative may make a presentation and request confirmation of the appointee. The appointee, if present, may address the Council. The Council may inquire into the appointee's academic credentials, training and experience, and qualifications or ability to perform the essential functions for the position for which the confirmation is sought. The public shall be given an opportunity to speak about the appointee's education, training, experience, and any other matters relevant to the appointee's qualifications or ability to fulfill the duties of the position. The President shall preserve decorum and cause to be removed any citizen whose comments are not related to the appointee's qualifications or ability to fulfill the duties of the position.

c. Councilmembers, the Mayor, the Mayor's representative, or the appointee may request postponement of the confirmation so long as ninety (90) days have not elapsed since the Mayor's notice was delivered pursuant to Rule 7- 3(C), above. The President shall state the purpose of the postponement and the date on which the confirmation will be taken up again. The motion to postpone shall be in accordance with Rule 3-17(E), above.

d. All appointees, except the City Attorney, shall be confirmed by the passage of a resolution receiving a concurring vote of a majority of the members of the full City Council. The appointee's confirmation resolution shall set forth the name of the appointee, the position to be held by the appointee and any other terms of the appointee's service the Mayor wishes to include.

e. The City Attorney shall be confirmed by the passage of an ordinance receiving a concurring vote of a majority of the members of the full City Council. The City Attorney's confirmation ordinance shall set forth the name of the City Attorney, the salary of the City Attorney, and any other terms of the appointee's service the Mayor wishes to include.

f. Failure to commence the confirmation process within thirty (30) days of the Mayor's notice, or to complete the confirmation process within ninety (90) days of the Mayor's notice, shall be deemed a de facto confirmation pursuant to the terms of City Charter § 4-40(f).

E. Suspension of this Rule.

1) For good cause shown, the President may suspend any procedural elements of this Rule at a Councilmember's or the Mayor's request. Good cause may include, but shall not be limited to, issues related to an appointee's current employment situation. The President shall notify each Councilmember of a decision to suspend any element of this Rule, and shall identify the element suspended and the reason for suspension. Any Councilmember may object to the President's decision to suspend any element of this Rule by sending written notice to the whole of Council, listing the Councilmember's objection to the element of this Rule that was suspended and grounds for the Councilmember's objection. The President may reverse his or her decision to suspend an element of this Rule based upon the objection, or may bring the objection to City Council for its consideration at the next available Work Session meeting.

2) Under no circumstances may the President suspend the deadlines within which the Council must act to confirm as set out in Rule 7-3(C), above, or the application of any provision of the Colorado Open Meetings Law as adopted in City Charter § 3-60(d) ("OML").

F. In accord with CORA and the OML, the following procedures shall be followed:

1) Councilmembers shall keep confidential any information in the confirmation packet that is not subject to public disclosure pursuant to CORA.

2) If the confirmation schedule calls for interviews of the appointee, all interviews involving more than two (2) Councilmembers shall be noticed in compliance with the OML.

3) If the confirmation schedule calls for a public input meeting outside a scheduled Work Session or Regular Session meeting, notice of the public input meeting shall be noticed in compliance with the OML.

4) "Confirmation" shall be included in the agenda information included in any OML notice for appointee interviews involving more than two (2) Councilmembers, a public input meeting, a City Council Work Session meeting, or a City Council Regular Session meeting.

## **PART 8 - COUNCILMEMBER CONDUCT**

### **8-1. COUNCILMEMBER INVESTIGATIONS**

Whenever a verbal or written communication is received by other Councilmembers, Appointees, or employees stating allegations of misconduct about a Councilmember, Council shall schedule a Closed Executive Session to discuss. If deemed merited by Council, an independent third party investigation may be requested. In order to summarily deal with untruthful complaints, the independent third party investigator shall immediately communicate with the Councilmember about whom the complaint has been made and commence an investigation by meeting with the Councilmember and the complainant. If the complaint is without merit, the independent third party investigator shall close and seal the file and report that the matter has been investigated without any finding of merit to Council. If the complaint merits further investigation, the third party investigator shall make a report to Council to request authorization for further investigation. All investigative work shall be considered work product and may be otherwise privileged. Complete final investigation reports shall be made to Council. By adoption of this rule, Council authorizes an annual budget item for the purposes of retaining an independent third party investigator. (1995; 2000)

### **8-2. RIGHT OF FLOOR**

When recognized by the President, a Councilmember shall confine himself/herself to the question under debate, avoid personal attacks, and refrain from impugning the motives of any other Councilmember's argument or vote. (2000; 2011)

### **8-3. COUNCIL REQUESTS OR DIRECTION (2011)**

Individual requests or instructions of Councilmembers are not binding on the Mayor or Council Appointees including the City Attorney and City Clerk. In the case of Councilmembers requesting information or assistance without Council authorization, the Mayor and other Council Appointees may refuse such requests that require, in their opinion, a material amount of staff time, funds, or are disruptive. Councilmembers and Appointees may bring such requests to the entire Council for consideration. (2000; 2011)

#### **8-4. VOTING**

Every Councilmember present at a Council meeting must vote on every item before Council unless it would constitute a conflict of interest under the City Charter or City Code of Ethics. Any member of City Council who has a personal or private interest in any matter proposed or pending before the City Council shall disclose such interest to the City Council and shall excuse themselves, and shall refrain from attempting to influence the decisions of the other members of the governing body in voting on the matter. (2000)

#### **8-5. ACCOUNTABILITY OF APPOINTEES**

The Council's accountability connection to the City and its enterprises, their operational organization, their achievements and conduct is through the Mayor and other Council Appointees. Although individual Councilmembers are encouraged to freely communicate with Appointees including the City Attorney and City Clerk, Councilmembers should refrain from giving individual direction to persons who report directly to the Mayor and other Appointees. Council, as a body and individual Councilmembers will refrain from evaluating, either formally or informally, the overall job performance of any staff other than their Appointees. (2000; 2011)

#### **8-6. MONITORING PERFORMANCE**

Council will evaluate each Appointee's job performance at least once per year based upon an approved performance plan. (2000)

#### **8-7. CODE OF CONDUCT**

A. Councilmembers must represent unconflicted loyalty to the interests of the citizens of Colorado Springs. Councilmembers should consider the interest of all of the citizens of Colorado Springs and vote accordingly.

B. Councilmembers should not attempt to exercise individual authority or influence over the City and its enterprises.

C. Individual Councilmembers will never lead the public or media to have the impression that their Appointees are acting improperly. If an individual Councilmember



believes an Appointee is acting improperly, the matter shall be discussed and decided by Council.

D. Councilmembers will respect the confidentiality appropriate to issues of a sensitive or legal nature. Any Councilmember who discusses confidential matters publicly will be subject to censure by the majority of Council as provided in City Charter § 3-50.

E. Councilmembers will come properly prepared for Council Meetings. (2000)

#### **8-8. COMPUTER USAGE AND COMPUTING ENVIRONMENT**

The City provides computer systems for use by Councilmembers in the conduct of official business. The computer systems are the property of the City and its enterprises and include computer hardware; approved, licensed software; e-mail messages; and data and/or the necessary network connections. City Councilmembers should refer to Attachment A regarding computer usage policy. Inappropriate usage of computer and technology will be addressed by the Mayor through the President of the Council. (2011)

## **PART 9 – REIMBURSEMENT**<sup>3</sup>

### **9-1. GENERAL**

The members of City Council may spend the funds allocated to the member from the Council General Fund budget on the following items without further Council authorization:

- A. Parking expenses in City parking garages for constituent visitors to City Hall.
  
- B. Preparation, printing, and distribution of official informational newsletters and other mailings from the Council or the Councilmember to the elected official's constituents, provided the mailings do not endorse a legislative position, urge the public to vote for or against a candidate for any office or for or against any ballot question, reference a quasi-judicial matter, or advocate for or against any matter in which the City has no direct and lawful interest.
  
- C. Automobile mileage used in the course of official City business, and other automotive costs related to office functions, provided such expenditures are in compliance with applicable City policies.
  
- D. Travel by the member to attend conferences, training, meetings, or events, provided such travel is in compliance with the City's current travel and meals policies and is related to the official or ceremonial duties of the member.
  
- E. Meals for the member and guests related to the official or ceremonial functions of the member.
  
- F. The member's admission to and meals at events related to City business or the member's official or ceremonial duties.

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<sup>3</sup>(2013)

G. Purchase of books and periodicals related to the member's official or ceremonial duties.

H. Publication of notices or advertisements for the purpose of notifying the public of City events or services.

I. Dues for organizations to which the member belongs, provided that the membership must be related to the official or ceremonial duties as a member of Council.

J. Payment of expenses related to participation in the activities of organizations to which the City belongs (by way of example, the Colorado Municipal League).

## **9-2. OUT OF STATE TRAVEL**

All out-of-state travel by a member must be authorized by Council before expenditures or reimbursements shall be authorized. Any member wishing to expend funds or obtain reimbursement for out-of-state travel will address a communication to that effect to Council at a time prior to the event with a copy to the President. The request will be considered as an action item on the next Council Work Session meeting agenda.

## **9-3. PROHIBITIONS**

No member of Council may use City funds, staff, consultants, equipment, vehicles, or facilities in support of any political action committee or for any purpose related to any ballot issue campaign or any campaign involving the nomination, retention, election, or re-election of any person to any public office.

## **PART 10 – MISCELLANEOUS**

### **10-1. COMMUNICATIONS ADDRESSED TO CITY COUNCIL CONCERNING ADMINISTRATIVE MATTERS**

City communications addressed to the City Council that require administrative action shall be referred to the Mayor for response. Communication matters regarding Colorado Springs Utilities are directed by Utilities Board policies. (1982; 2000; 2011)

### **10-2. QUASI-JUDICIAL ACTIONS**

A. Ex Parte Contacts/Fair Hearings. The Council shall refrain from receiving information and evidence on any quasi-judicial matter while such matter is pending before the City Council or any agency, board or commission thereof, except at the public hearing.

As an elected official, it is often impossible to avoid such contacts and exposure to information. Therefore, if any member is exposed to information about a pending matter outside of the public hearing, through contacts with members of the public, the applicant or through site visits, the member shall disclose all such information and/or evidence acquired from such contacts, which is not otherwise included in the written or oral staff report, during the public hearing and before the public comments period is opened. If Council receives written individual information on quasi-judicial actions, a copy shall be made for the rest of Council.

Matters are "pending" when an application has been filed. Information and evidence gained by members via their attendance at noticed public hearings before subordinate boards and commissions are not subject to this rule.

B. Council should refrain from discussing quasi-judicial actions with any person for forty (40) days after the date of the quasi-judicial decision.

### **10-3. AMENDMENT OF RULES**

These rules may be amended or suspended, or new rules adopted, by a majority vote of all members of the Council. (2000)

#### **10-4. DEFINITIONS**

A. COUNCIL - Wherever "Council" is used, it refers to the City Council for the City of Colorado Springs. (2000)

B. COUNCIL APPOINTEE - A "Council Appointee" is the Utilities Executive Director, City Auditor, and the Memorial Health System Board of Trustees through its chair person. (2000; 2011)

C. LEGISLATIVE ACTION - A legislative action generally involves the exercise of Council's authority to make laws for the good of all the citizens. The existence of a statute or ordinance is not determinative since the law considers the nature of the decision and the process by which the decision was reached as most important. Legislative action is usually reflective of some public policy relating to matters of a permanent or general character, is not normally restricted to identifiable persons or groups, and is usually prospective in nature. Further, legislative action requires balancing questions of judgment and discretion, is of general application, and concerns an area usually governed by legislation. See: *Cherry Hills Resort Development Co. v. City of Cherry Hills Village*, 757 P.2d 622 (Colo. 1988). (2000; 2011)

D. ORDINANCE - An ordinance is the formal legislative document which establishes the law of the City and remains in effect until otherwise repealed or amended by the Council. The City Clerk shall read the title of the ordinance for consideration by Council except those items on the Consent Calendar which are acted upon as a whole. Related ordinances may be acted upon as one item after the titles are read in series by the City Clerk. (2000; 2011)

E. QUASI-JUDICIAL ACTION - A quasi-judicial action generally involves a 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 or resolving the particular interests in question. The existence of a statute or ordinance mandating notice and a hearing is generally evidence of a quasi-judicial decision. Another factor indicating the judicial nature of a municipal action is whether the matter is of a type

ordinarily heard by a court. If the issue is essentially political, the action cannot be deemed to be quasi-judicial (McQuillin Mun Corp § 49.69). It is the nature of a decision rendered by the governmental body and the process by which that decision is reached that determines whether the governmental body has exercised a quasi- judicial function in rendering its decision. See: Cherry Hills Resort Development Co. v. City of Cherry Hills Village, 757 P.2d 622 (Colo. 1988). (2000)

F. RESOLUTION - A resolution may be used for a statement of policy or other matters which are not required to be adopted by ordinance. (2000)