

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

**RULES AND PROCEDURES OF CITY COUNCIL**

Adopted by Resolution No. \_\_\_\_-22, effective October 25, 2022

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<sup>1</sup>Rules of Council are adopted by §3-50 of the Charter of the City of Colorado Springs

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

The purpose of the Rules and Procedures of City Council is to address the duties, functions and procedures not outlined elsewhere in the City Charter and City Code of the City of Colorado Springs.

In the absence of a rule to govern a point of procedure, "Parliamentary Law and Practice for Nonprofit Organizations" shall govern City Council's actions. (1982, 2000, 2022)

These rules may be amended or suspended, or new rules adopted, by a majority vote of all Councilmembers.

The following Prologue was established in 2010 when the City changed forms of government. The Prologue is being included in this document in order to maintain legislative history.

## 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 Councilmembers and six (6) District Councilmembers from whom the Councilmembers 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 City 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, Police Chief, Fire Chief, and Directors 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)

All legislative powers of the City of Colorado Springs are vested in City Council except as otherwise provided by law or City Charter Section 3-10(a). To conduct its business as City Council, City Council is authorized to amend and publish its own Rules and Procedures (City Charter Section 3-50). These rules provide for City Council's actions in meetings and hearings, as City Council in its legislative, quasi-judicial and regulatory roles. These rules do not apply to City 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, City 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, City Council is responsible for:

- Providing by ordinance a system for the collection, custody, and disbursement of all public monies; (Charter Section 7-20(b))
- Adopting the budget with or without amendment and appropriating funds; (Charter Section 7- 30(a))
- Estimating, declaring and adopting by ordinance, the amount of money necessary to be raised by tax levy; (Charter Section 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 Section 7-30(c))
- Issuing local improvement district bonds; (Charter Section 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 Section 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 and appointment of Utilities CEOs;
- Reviewing a Mayor's proclamation in times of public emergency and terminating such proclamation by a majority vote of the City 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 Councilmembers, Mayoral appointees as designated by the City Charter;
- Providing an "Annual Report to the Citizens;"
- Appointing the City Auditor and City Council Administrator; and
- Reviewing and approving personnel policies and procedures for City employees as well as municipal purchasing and contracting rules and regulations. (2000; 2011)

City 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. The term of newly elected Councilmembers shall commence at 10:00 a.m. on the third Tuesday of April following their election, except the term of a Councilmember appointed to fill a vacancy shall commence upon the taking of the oath of office. (2021)

B. In odd numbered years, 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. The election of City 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 (City Charter Section 3-20).

D. Other Presiding Officer

1) During meetings, the President may designate any Councilmember to preside in the temporary absence or inability to act of the President and President Pro Tem.



2) If the President and President Pro Tem shall be absent, then the City Clerk shall call the City 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. The President shall be the Presiding Officer at all Regular Meetings, Work Sessions and Special Meetings of City Council and shall have the following powers and perform the following duties:

1) Prepare agendas for Regular Meetings, Work Sessions, and Special Meetings of City Council with the assistance of the City Council Administrator or designee, City Clerk or designee, Chief of Staff or designee, and City Attorney or designee.

2) Take the chair, call the Councilmembers 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 and confine members in debate to the question under discussion. (2021)

4) Decide all questions of order, subject to a Councilmember's right to appeal to the City Council as a whole.

5) Speak to points of order in preference to other Councilmembers.

6) Speak as other Councilmembers on general questions, or call other Councilmembers to speak.

7) Announce the results promptly on the completion of every vote.

8) Sign all resolutions and ordinances passed by the City Council, and the City Clerk shall attest the same.

9) Issue proclamations.

- 10) Vote upon all questions in the same manner as any other Councilmembers.
- 11) Summarize the direction given by City Council and work with the City Council Administrator to ensure direction is executed.
- 12) Appoint President's Boards, Commissions, or Committees pursuant to Rule 5-2 of these Rules and Procedures.
- 13) Serve as the official spokesperson for City Council on City Council's formal decisions and may authorize correspondence stating City Council's formal decision.
- 14) 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. The President's decision shall consider seniority, security, and other relevant factors that the President may discuss with the entire City Council. (2021)
- 15) Call Special Meetings of the City Council in accordance with Part 2-3 of the Rules and Procedures of City Council.
- 16) Shall endeavor to be available for periodic individual meetings as requested by Councilmembers (2022).
- 17) Shall endeavor to facilitate and mediate conflicts between Councilmembers in a timely manner and communicate resolution to City Council as applicable (2022).

B. In the absence of the President, upon the President's 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**

A. Succession of City elected officials shall take place in accord with City Charter section 4-20.

#### **1-4 CITY COUNCIL APPOINTEES**

A. The City Council shall appoint the City Council Administrator, Utilities Executive Director, City Auditor, and the Memorial Health System Board of Trustees through its Chair Person in accord with City Charter section 3-10(e).

B. A "City Council Appointee" is the City Council Administrator, Utilities Executive Director, City Auditor, or the Memorial Health System Board of Trustees through its Chair Person.

## **PART 2 – CITY COUNCIL MEETINGS**

### **2-1 LEGISLATIVE ACTIONS, ORDINANCES, AND RESOLUTIONS**

A. A legislative action generally involves the exercise of City Council's authority to make laws for the good of the citizens of Colorado Springs. 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).

B. 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 City Council. The City Clerk shall read the title of the ordinance for consideration by City 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 or designee.

C. A resolution may be used for a statement of policy or other matters which are not required to be adopted by ordinance.

### **2-2 REGULAR MEETINGS**

A. Regular Meetings of the City Council shall generally be held on the second and fourth Tuesdays of each month, or on such other dates and times as determined by City Council. Regular Meetings shall be moved when in conflict with Federal holidays. Regular Meetings shall be open to the public, except Closed Executive Sessions, and citizens shall have a reasonable opportunity to be heard under the Rules and Procedures of City Council. The City Clerk shall record and keep meeting minutes of Regular Meetings, which shall be a public record. (1982; 2000; 2003; 2011; 2013; 2021)

B. The Regular Meetings shall include the following agenda items. The order shall be set by President, President Pro-Tem and staff at agenda preparation. When applicable, a time certain shall be assigned for agenda items. During the Regular Meeting, the order of business may be altered by a majority vote of Councilmembers present. (2021)

- 1) Call to Order

2) Invocation and Pledge of Allegiance

3) Changes to Agenda/Postponements

4) Consent Calendar – These items will be acted upon as a whole, unless a specific item is called for discussion by a Councilmember or a citizen wishing to address the City Council. Within this section are included, but not limited to, approval of the meeting 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 City Council. The record on all items called on the Consent Calendar shall include all items distributed to City Council for the Regular Meeting and the decision and record before the Planning Commission or other Board, Commission or Committee which has considered the matter, if applicable. Councilmembers, citizens, or the 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 under Items Called Off Consent Calendar. For Public Hearings called off the Consent Calendar, the majority of City Council will determine if the item is to be heard under Items Pulled Off Consent Calendar or Public Hearings. 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 meeting minutes shall so reflect. (2011)

5) Recognitions – such as proclamations and resolutions.

6) Citizen Discussion for Items not on Agenda – limited to items not pending before City 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 citizen discussion to a fixed time period, subject to a determination otherwise by approval of an appropriate motion by City Council. Time limits will be strictly enforced by the President and time will be kept by the City Clerk or designee. (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 - Legislative items and Public Hearings on land use items (2011)
- 13) Added Item Agenda
- 14) Executive Session (2013)
- 15) Adjourn (2013)

### **2-3 WORK SESSIONS**

A. The City Council shall meet on the Monday immediately preceding Regular Meetings or on such other dates and times as determined by City Council. Work Sessions shall be moved when in conflict with Federal holidays. The City Clerk shall record and keep meeting minutes of Work Sessions, which shall be a public record. (1982; 1989; 1992; 2000; 2003; 2011; 2021)

B. Work Sessions are not a time for public comment on items scheduled for discussion unless noticed otherwise on the agenda or permitted by the President. If it is determined by the President to allow public comment, equal time must be given to the opposition of an issue under consideration. No official legislative action shall be taken and no quorum shall be necessary at a Work Sessions. As used herein, official legislative action shall mean the passage of an ordinance or a resolution or taking quasi-judicial action. City Council efforts to arrive at a consensus position to research or study a matter shall be permitted. (1982; 1989; 1992; 2000, 2001; 2011; 2013; 2021)

C. The order of items at Work Sessions shall be set by the President, President Pro Tem and staff at agenda preparation. Work Session agenda items shall be placed on the agenda at the request of three (3) Councilmembers. The Work Sessions shall include the following agenda items. (2021)

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

- 3) Regular Meeting Comments - Advise staff of possible changes to agenda and items to be called off Consent Calendar.
- 4) Review of Previous Meeting Minutes - If no objection is made to the meeting minutes as presented by the City Clerk, the meeting minutes shall stand approved without express motion to that effect.
- 5) Executive Session – Executive session may be open or closed upon advisement of Attorney’s Office and decision of City Council.
- 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

## **2-4 SPECIAL MEETINGS**

A. The City Council may meet at such other times as it may be called by the President or upon the written request of five (5) Councilmembers. The public notice shall state the time, place and purpose for which the Special Meeting is called and shall be properly posted at least twenty-four (24) hours prior to the meeting to comply with the Colorado Open Meetings Law. 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, by phone to each Councilmember at the phone number on record, and by leaving a copy at the municipal office of each Councilmember. Each Councilmember shall provide to City Council administrative staff at least one primary phone number at which they will be responsible for receiving notice of Special Meetings or other time critical information. (2021) Notice may be supplemented through any other form of communication requested by a Councilmember. The City Clerk shall record and keep meeting minutes of Special Meetings, which shall be a public record. (1982; 2000; 2011; 2013)

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

## 2-5 AGENDA

- A. "Agenda packet" means agendas of meetings and any other documents that have been or are intended to be distributed to City Council in connection with a matter anticipated for discussion or action at a public meeting.
- B. The agenda for each Regular Meeting, Work Session or Special Meeting must be posted in accordance with the Open Meetings Law (See City Charter Section 3-60(d)) with a minimum of twenty-four (24)-hours notice. The City Clerk must maintain a record of such posting in a form approved by the City Attorney.
- C. All matters to appear on the Regular Meeting, Work Session, and Special Meeting agendas shall be filed in accord with the schedule as set forth by the City Clerk prior to the meeting.
- D. 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.coloradosprings.gov](http://www.coloradosprings.gov) in accord with the annual agenda schedule from the Office of the City Clerk for a Regular Meeting or Work Session.
- E. 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 (See City Charter Section 3-60(d)) is applicable.
- F. Annually, the Office of City Clerk issues a schedule of due dates for agenda materials. Materials should be filed in accord with this schedule. Materials not filed by the established filing deadline may be held over to the next City Council Meeting as directed by the President. All primary, non-time sensitive submission materials, including presentations, must be received by the City Clerk by 1200pm on the Wednesday prior to the City Council Meeting unless otherwise directed by the President. (2021)
- G. The President, with the assistance of the City Council Administrator or designee, City Attorney or designee, and City Clerk or designee, shall prepare the agenda for all Council meetings except as noted for Executive Sessions.
- H. Any Councilmember who wishes to introduce an ordinance or resolution for discussion shall submit the item to the President in accord with the schedule as set forth by the City Clerk and with the support of at least two (2) other Councilmembers. City Council shall give direction on how to proceed with the item: additional Work Session, schedule for consideration at a Regular Meeting or take no action. (2021)
- I. Any City Council Appointee who desires to bring a matter before Council shall submit the item to the President in accordance with the schedule as set forth by the City



Clerk. City Council Appointees shall also have the opportunity to speak at the Regular Meeting or Work Session. (2000; 2011; 2021)

J. Any City Board, Commission, or Committee via its Chair, who would like City 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 with the support of two (2) additional Councilmembers. City Council then may provide direction on whether or not an ordinance or resolution should be initiated per the request.

K. Any member of the public who would like City 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 with the support of two (2) additional Councilmembers. City Council then may provide direction on whether or not an ordinance or resolution should be initiated per the request. (2021)

L. Added Item Agenda

1) 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 the notice is given to Councilmembers in the same manner as required for Special Meetings. The notice shall be served at least twenty-four (24) hours prior to the time at which the item will be heard. 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. 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." (2021)

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

3) Every item brought before City Council shall be accompanied by a cover memo from the City Council Administrator, City Clerk, appropriate department head, or the City Attorney clearly explaining the presenter, summary, background, previous Council action, financial implications, City Council Appointed Board/Commission/ Committee recommendation, stakeholder process, alternatives, proposed motion, and summary of ordinance language, as applicable; provided, however, that any member of City Council may file an ordinance or resolution without such a statement. (2021)

a. Items scheduled for 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 City Council and the City Clerk at the time City Council is asked to take action. Final materials shall be provided to City Council staff for distribution prior to the meeting.

4) Confidential materials are not included with the published agenda, but are submitted to City Council in hard copy or electronic form when possible in advance of the meeting, but not later than the start of the Executive Session. Confidential materials may 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 may be included. (2021)

## **2-6 OPEN OR CLOSED EXECUTIVE SESSIONS**

### **A. Conduct of Open or Closed Executive Sessions**

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

2) The City Clerk or designee and City Attorney or designee shall prepare the Open or Closed Executive Session agenda items with the approval 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 (See City Charter Section 3-60(d))., in the calling and conduct of Open or Closed Executive Sessions. Prior to convening in the Open or Closed Executive Session, the President shall announce the general topics of the Open or Closed 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 a Closed Executive Session. Prior to entering any Closed Executive Sessions, Councilmembers participating electronically and/or telephonically shall ensure that no other member of the public not authorized to participate in the Closed Executive Session is present or able to hear matter discussed as part of the Closed Executive Session. No proposed policy, position, resolution, rule, regulation, or formal action shall be adopted at any Closed 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. If the employee who is the subject of the Open or Closed Executive Session has requested an Open Executive Session, or if the personnel matter involves more than one employee and all of the employees have requested an Open Executive Session, the personnel matter may be considered in Open Executive 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 Open or Closed Executive Session, the President shall serve as the Presiding Officer, and the City Clerk or designee shall serve as the Recording Secretary.
- 5) The Councilmembers, City Attorney or designee, and authorized invitees shall have an affirmative obligation to immediately voice objection during the Closed Executive Session regarding the propriety of a Closed Executive Session and the Closed Executive Session's conformance with the Open Meetings Law (See City Charter Section 3-60(d)). 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 City Council is admonished to conform to the appropriate policy or procedure for Closed Executive Session or the objection is found by the President to be without merit.
- 6) Upon return of the City Council to a Regular Meeting, Work Session or Special Meeting following a Closed Executive Session, the President may invite Closed Executive Session participants to publicly voice objection on the record to the propriety of a Closed Executive Session and the Closed Executive Session's

conformance with the Open Meetings Law (See City Charter Section 3-60(d)). An objection may be publicly voiced only where the objector raised the objection during the Closed 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 Closed Executive Sessions

1) Required attendees at a Closed Executive Session shall be limited to the legislative body of the City Council (all Councilmembers) 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 a Closed 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) The President may, unless objection is raised by three (3) or more members of the City Council, authorize other persons to attend all or any part of a Closed Executive Session. Invitees will customarily include the City Council Administrator or designee, City Clerk or designee, and City Attorney or designee(s). Administrative staff of the City, consultants, or other persons may be invited to attend if such persons will provide information to the City Council or otherwise participate in the session.

3) Attendance by an invitee other than the City Council Administrator or designee, City Attorney or designee(s), and City Clerk or designee should be limited to portions of Closed 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 Closed Executive Sessions

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

2) Invitees to a Closed Executive Session (other than those invitees who routinely attend Closed Executive Sessions) should be instructed by the President or City Attorney or designee prior to Closed Executive Session attendance about the requirement of confidentiality.

3) Any Councilmember who does not abide by the confidentiality of the Closed Executive Session will be subject to censure by the majority of City Council as provided in City Charter Section 3-50. Disclosure of confidential information is addressed in the City Code of Ethics. (2021)

D. Closed Executive Session discussions of the City Council shall be electronically recorded by the City Clerk or designee for the Closed Executive Session, except that:

1) If, in the opinion of the City Attorney who is in attendance at the Closed Executive Session, all or a portion of the discussion during the Closed 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 Closed Executive Session discussion shall reflect that no further record was kept of the discussion based on the opinion of the City Attorney in attendance, as stated for the record during the Closed Executive Session, that the discussion constitutes a privileged attorney-client communication. Any written Meeting Minutes shall contain a statement from the City Attorney or designee attesting that the portion of the Closed Executive Session that was not recorded constituted a privileged attorney-client communication in the opinion of the attorney and a signed statement from the Presiding Officer of the Closed Executive Session attesting that the portion of the Closed 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. 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 Closed Executive Session or to permit such person to participate in the discussion. (2021)

F. No portion of the recording of a Closed 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 Councilmembers, 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. A Councilmember, without prior approval or consent of the City Council, may listen to a recording of a Closed Executive Session in the following circumstances and in accord with the following procedures:

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

2) The Councilmember shall contact the City Clerk to arrange a mutually available date and time for listening to the Closed Executive Session recording. The City Clerk shall provide to the Councilmember the electronic recording together with access to a private room, 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 Closed Executive Sessions.

3) No person may accompany a Councilmember during the listening of the Closed 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 Closed Executive Session; and c) the City Attorney, or City Attorney's designee if the City Attorney or designee was in attendance during the Closed Executive Session.

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

5) No Councilmember may remove the recording of a Closed 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. The Mayor/Chief of Staff and/or the City Attorney or designee may, without prior approval or consent of the City Council, listen to a recording of a Closed Executive Session only in the following circumstances and in accordance with the following procedures:

1) The Mayor/Chief of Staff or City Attorney or designee shall have attended the Closed Executive Session; or

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

3) Neither the Mayor/Chief of Staff nor City Attorney or designee may copy, record, or otherwise transcribe all or any portion of a Closed Executive Session recording. No person may accompany the Mayor/Chief of Staff or the City Attorney or designee during the listening of the Closed Executive Session recording.

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

J. Notwithstanding any provision of this rule, the City Council may by a majority vote of a quorum present at a Regular Meeting prohibit access to a Closed Executive Session

recording at any time. Such vote may be taken at the request of any Councilmember who was present at the Closed Executive Session. (2021)

K. The recording of a Closed Executive Session shall be retained for not less than ninety (90) days after the date of the Closed Executive Session. The City Clerk shall provide for a procedure to manage retention of Closed Executive Session recordings and destruction thereof within a reasonable time after the expiration of such ninety (90) days, in accordance with this rule. This procedure shall be in accordance with the Colorado Municipal Records Retention Schedule. (1982; 1987; 2000; 2011; 2013; 2021)

## **2-7 PUBLIC PARTICIPATION (2021)**

A. Persons, including Councilmembers, shall be permitted to address the City Council on topics relevant to City Council business during the Citizen Discussion period of the meeting or on other agenda items. City Council may allow members of the public to address the City Council electronically and/or telephonically.

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

C. Time Limits

1) The Citizen Discussion period of the meeting is a limited public forum offering citizens the opportunity to provide input to the City Council on items that are not on the Regular Meeting agenda. The Citizen Discussion period of the meeting shall be limited to a total of no more than one (1) hour. Members of the public shall be permitted to speak for three (3) minutes each. The President may modify the one (1) hour time limit or limit comments to a different fixed time period, subject to a determination otherwise by approval of an appropriate motion by City Council.

2) 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 City Council consideration to a fixed time period, subject to a determination otherwise by approval of an appropriate motion by City Council.

D. Remarks to be Germane

1) Topics shall be relevant and germane to City Council business, and shall be related to items over which the City has jurisdiction and those items which are not pending quasi-judicial matters.

2) 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. Councilmembers, 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. Any person who makes threatening, abusive, personal, impertinent, irrelevant, slanderous, or profane remarks which genuinely disrupt, disturb, or otherwise impede the orderly conduct of the City Council Meeting, or who otherwise engages in any other disorderly conduct which disrupts, disturbs, or otherwise impedes the orderly conduct of any City Council Meeting, or jeopardizes the City Council's ability to proceed with its business, shall be, upon the direction of the President or a majority of the City Council, barred from further attendance at that City Council Meeting. In that event, it would be the duty of a law enforcement 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. At any point, the President is authorized to recess the meeting until peace and order can be restored.

## **2-8 CITY COUNCIL RECOGNITONS (2021)**

A. City Council may issue resolutions of recognition to be presented at Regular Meetings. At the request of a Councilmember, Executive staff or member of the public, the City Council may, by resolution, recognize events of historical importance, local art and cultural celebrations, raise public awareness of local issues that impact community health and safety, support charitable fundraising campaigns benefiting a majority of residents, and recognize individuals who have made a significant contribution to the community. Prior to being placed on a Regular Meeting agenda, the President will confirm the recognition has the interest of at least five Councilmembers. Resolutions shall not be issued for campaigns or events contrary to City policies, events or organizations with no direct relationship to the City of Colorado Springs, and for-profit causes (2022).

B. The President may issue proclamations of recognition per Rule 2.1.A.9 of the City Council Rules and Procedures. Proclamations will not appear on the City Council meeting agenda.



## **PART 3 – CITY COUNCIL PROCEDURES**

### **3-1 QUORUM**

A. The President, or Presiding Officer, shall take the Chair at the hour appointed for the City Council to meet, and shall immediately call the Councilmembers to order. The City Clerk shall enter upon the meeting minutes the names of the Councilmembers present. Five (5) Councilmembers shall constitute a quorum to do business. In the absence of a quorum at the time appointed for a Regular Meeting, the Councilmembers present shall adjourn the meeting to another designated time. (1982; 2000; 2011)

### **3-2 ATTENDANCE (2013; 2021)**

#### **A. General**

1) Councilmembers are expected to attend meetings and stay in attendance during each meeting. No Councilmember shall be excused from attendance at a City Council meeting except for good and valid reasons. No member should leave a City Council meeting while in session without advising the Presiding Officer. The City Council may compel the attendance of Councilmembers (City Charter Section 3-50).

2) No Councilmember may be excused from attending a City Council meeting without the permission of the City Council (City Charter Section 2-30(b)(4)).

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

1) No Councilmember may be excused from attending a City Council meeting without the permission of the City Council (City Charter Section 2-30(b)(4)).

2) Councilmembers shall be required to contact the President no later than one (1) hour before the start of the meeting requesting to be excused from the City Council meeting and stating the reason for the absence. Failure to comply, except in cases of emergency, shall result in an unexcused absence.

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

4) 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.

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

D. Electronic and/or Telephonic Attendance

1) A Councilmember's presence at a City Council Meeting may be achieved electronically and/or telephonically with the approval of the President.

### **3-3 APPEAL OF A DECISION OF THE PRESIDENT (2021)**

A. The President shall preserve decorum and decide all questions of order, subject to appeal by a Councilmember. A majority vote of the City Councilmembers present is required to overturn a decision of the President.

### **3-4 VIOLATION OF THE RULES AND PROCEDURES OF CITY COUNCIL**

A. If a Councilmember violates the Rules and Procedures of City Council, the President shall call such Councilmember to order, in which case the Councilmember shall be silent, unless permitted to explain by the President. (1982; 2000; 2011)

### **3-5 VOTING**

A. The City Council shall act only by ordinance, resolution, or motion. Every Councilmember present in Council Chambers when a question is presented 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 Councilmembers present for approval and passage. Every ordinance or resolution providing for the expenditure of money shall require the affirmative number of votes as required by City Charter upon final passage. (1982; 2000; 2011; 2022)

B. Whenever a vote is taken, each Councilmember present in Council Chambers shall vote in favor or against the motion. After all Councilmembers have voted, the President, or designee, shall announce the vote total and the City Clerk shall display the vote of the City Council digitally and it shall be plainly visible to the City Council and members of the public. The City Clerk shall then record the vote of each Councilmember in the meeting minutes before passing on to the next order of business. (1982; 2000; 2011, 2022)

C. In the event the electronic voting technology becomes inoperative during any City Council meeting, the City Council meeting is at a location without electronic voting technology, or a Councilmember is participating electronically and/or telephonically, 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 each Councilmember in favor or against the motion in the meeting minutes. (1982; 2000)

### **3-6 VOTE OF ABSENT COUNCILMEMBER**

A. It shall be improper for any Councilmember to state or attempt to state the vote or sentiments, unless previously stated by the absent Councilmember in a prior open meeting, of any absent Councilmember or for the City Clerk to make any reference in the meeting minutes to such an attempt. (1982; 2000; 2021)

### **3-7 DIVISION OF A QUESTION**

A. Upon the request of any Councilmember, a question under consideration covering two (2) or more points shall be divided where the question allows such division. (1982; 2000)

### **3-8 DISSENTS AND PROTESTS**

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

### **3-9 TIE VOTES**

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

### **3-10 UNANIMOUS CONSENT - EXPEDITING COUNCIL BUSINESS**

A. 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 Councilmember requesting unanimous (or general) consent to a proposal or by the President 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)

### **3-11 MOTIONS TO BE STATED BY THE PRESIDENT**

A. 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 request that it be reduced to writing. (1982; 2000; 2011)

### **3-12 SPECIAL MOTIONS**

A. These motions must be disposed of immediately:

- 1) A motion objecting to consideration of an item must be made immediately after an item is called to the attention of City Council by the City Clerk or designee. This motion enables the City 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 Councilmembers present. The movant must state the reason for objection. This motion may only be used for items eligible for objection to consideration. If City Council postpones consideration, City Council must determine a date certain for an item to be considered, as required by law. (1982; 2000; 2011; 2021)
- 2) 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)
- 3) A Councilmember may move to suspend the Rules and Procedures of City Council. The purpose of this rule is to enable City 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 Councilmembers present. (1982; 2000; 2011)

### **3-13 PARLIAMENTARY PROCEDURE FOR MOTIONS**

A. When an item is before City Council, no motion shall be entertained except as listed according to priority (highest to lowest). In making any of the following motions, the motion maker may not interrupt another speaker. (1982; 2000)

- 1) Motion to Adjourn - Requires a second, is not debatable, is not amendable, and requires a majority vote of those present. (1982; 2000)
- 2) To Postpone Temporarily - Requires a second, is not debatable, is not amendable, and requires a majority vote of those present. (1982; 2000)
- 3) 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)

- 4) 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)
- 5) 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)
- 6) 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. Items may be referred to Executive staff or a Board, Commission, or Committee. (1982; 2000; 2021)
- 7) 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)
- 8) 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)
- 9) 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. The Councilmember making the motion shall state the basis for the motion, including conditions of the reconsideration and applicable facts. As practicable, all Councilmembers present for the motion should be present for the reconsideration. (2021)
  - a. If the motion to reconsider is made at the same City Council meeting at which an action was taken, the motion must be made by a Councilmember who voted with the majority and may be seconded by any other Councilmember. If approved, the motion is adopted, and the action is reconsidered and City 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. As practicable, efforts should be made to inform all involved parties prior to Council undertaking the reconsideration at the same meeting.
  - b. If the motion to reconsider is made at a City Council meeting other than the City Council Meeting at which the action was taken, a Councilmember who voted with the majority must submit a request in writing to the President no later than noon of the third (3<sup>rd</sup>) day after the original action and request that the motion to reconsider be placed on the next Regular Meeting agenda. The request shall state the Councilmember's

name, the item to be reconsidered and the date of the next Regular Meeting. If the motion to reconsider is voted upon and a majority of Councilmembers vote to reconsider an action, the reconsideration can be held immediately, If the item for reconsideration has been noticed. If not properly noticed for immediate reconsideration, or upon Council's desire, the item can be reconsidered at a later City 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 City Council. (1982; 1986; 1991; 2000; 2011; 2013)

10) 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 or as otherwise required by law. (1982; 2000; 2011)

### **3-14 PROCEDURES FOR THE PASSAGE OF AN ORDINANCE OR RESOLUTION**

A. Every ordinance finally passed by City 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 section 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) Councilmembers vote to override 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 City Council to complete the override 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 the City Charter; an ordinance submitting a City Charter amendment, referring an initiated ordinance or City Charter amendment, or referring a City Charter convention question to the qualified electors. (2011)

D. The City Clerk shall, with the Mayor, sign and attest all ordinances. The City Clerk or designee shall, with the Council President, sign and attest all resolutions (2011, 2022).

### **3-15 PROCESS FOR APPOINTING A COUNCILMEMBER WHEN A VACANCY OCCURS (2022)**

If a vacancy occurs in the office of a Councilmember more than sixty (60) days prior to the next general municipal election, the Council shall appoint an eligible person to fill such vacancy within thirty (30) days of the date of vacancy until the next general municipal election (City Charter Section 2-30). City Council may suspend or modify this rule in order to amend the appointment process as provided for in Rule 3-12.A.3, but in any case the appointment shall comply with the requirements of City Code and City Charter.

A. The process for filling a vacancy shall commence when the office of Councilmember becomes vacant upon death, removal from office, forfeiture of office in any manner authorized by law, or upon a Councilmember stating an intent to resign to the President in writing.

1) Upon any Councilmember signaling an intent to resign, the President shall request a written letter of resignation from the resigning Councilmember with a stated effective date of the resignation.

B. Notice of the upcoming or current vacancy shall be made available to members of the public. Applications to fill the vacancy shall be open for no less than fourteen (14) days after members of the public are notified.

1) A majority of City Council will determine the application questions.

C. Once the period for submitting applications has closed, City Council will be provided all eligible candidate applications for review. Each Councilmember will submit a list of no more than five (5) candidates to interview to the Council Administrator. All candidates with a recommendation by three (3) or more Councilmembers will move forward to the interview phase of the selection process. If no candidate receives at least three (3) recommendations, a majority of City Council will determine whom to interview.

1) The Councilmember stating an intent to resign may submit a list of no more than five (5) candidates to interview to the Council Administrator prior to the effective date of resignation.

D. After the effective date of the vacancy, City Council shall hold a Special Meeting to interview and vote to appoint a replacement.

- 1) Public comment on the replacement will be heard in accordance with Rule 2-7.
  
- 2) The appointed Councilmember, before they enter upon the duties of their office, take, subscribe, and file with the Clerk an oath or affirmation to support the Constitution of the United States, the Constitution of the State of Colorado, and the Charter of the City of Colorado Springs, and to faithfully perform the duties of the office upon which they shall be about to enter (City Charter Section 13-30).



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

The following rules, established in accordance with City Code Section 12.1.108 (Regulation of Electric, Streetlight, Natural Gas, Water and Wastewater Rates, Charges and Regulations), 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). (2021)

### **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 City 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 City 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; and/or 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 City 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.

## B. Hearing Procedures

1) City 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. City Council is not bound by the rules of evidence. City 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, City Council may question witnesses and may allow such questioning, rebuttal or argument by Utilities, and by customers, their attorneys or representatives, as City Council deems appropriate. City 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, City 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 City 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, City Council shall identify issues for deliberation and decision. City Council may adjourn to another time to complete its deliberation and make a decision on the issues. City Council may revise any proposed pricing or tariff as a result of the information presented at the public hearing. All decisions made by City Council shall be based on the record.

2) After its deliberations, City Council shall instruct the City Attorney or designee 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 City Council for deliberation, and City Council's findings on the issues.

- 3) The written Decision and Order of City Council shall be incorporated in a Resolution of City 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 City 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, re-argument or reconsideration of the decision of City Council.
- 6) The Utilities filing and supporting documentation, all subsequent documents submitted to City Council or the City Clerk by Utilities, customers or their representatives, the report of the City Auditor, the presentations to City Council by any party, all City 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) City 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 City 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 City 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 City 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 City Council's Consent Calendar. (2011)

3) The resolution adopting changes shall be considered an Order of City 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, COMMISSIONS, AND COMMITTEES**

City Council Boards, Commissions, and Committees shall be governed in accordance with City Charter Section 9-10, City Code section 1.2.901, et seq., and any establishing legislation. These Rules and Procedures of City Council govern the conduct of City Council Boards, Commissions, and Committees in the absence of separately adopted Rules and Procedures. (2021)

### **5-1 TYPES OF BOARDS, COMMISSIONS, AND COMMITTEES (2021)**

A. City Council Appointed Boards, Commissions, and Committees - City Council Boards, Commissions, or Committees are generally advisory in nature to assist City Council by preparing recommendations for City Council decisions. City Council appointed Board, Commission, and Committee members shall be selected in accord with the provisions of the ordinance or resolution establishing the Board, Commission, or Committee and shall reside in the City of Colorado Springs in accordance with City Code Section 1.2.901.F and shall serve without compensation. Members of Boards, Commissions, and Committees 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, Commission, or Committee.

1) At least one (1) Councilmember shall serve as a liaison to every City Council appointed Board, Commission, and Committee. Liaisons shall be assigned equally in number to the best extent possible among Councilmembers and ratified by the entire City Council. Liaisons serve as a conduit between the Chair/Vice-Chair of the Board, Commission, or Committee, and City Council. It is also a duty of the liaison to interview new appointees to the Board, Commission, or Committee. (2000, 2002; 2011)

2) At least one (1) Executive or Council staff shall be assigned to each City Council Board, Commission, or Committee to serve as a Staff Liaison. Staff Liaisons shall be responsible for attending each meeting, ensuring agendas and meeting minutes are published, informing the City Council staff of vacancies, and providing guidance concerning City policies and operations.

B. President's Boards, Commissions, and Committees - The President may appoint special Boards, Commissions, or Committees composed of Councilmembers and/or members of the public to assist in the study of items before the City Council. A working group so appointed shall serve until the matter is disposed of by the City Council unless sooner terminated by the President. (1982; 2000; 2011)

C. City Council Subcommittees – The City Council may form subcommittees on specific subject matters and meet outside of Work Sessions and Regular Meetings. Subcommittees can be formed upon the consensus of five (5) Councilmembers. City

Council may work with the Mayor to assign an Executive staff liaison. When possible, matters related to the subcommittee should be brought before the subcommittee prior to a Work Session or Regular Meeting.

D. Councilmember Appointments on Boards, Committees, and Commissions – Councilmembers shall serve as voting members on City, regional, and intergovernmental Boards, Committees, and Commissions as required by law. Such appointments to these Boards, Commissions, and Committees shall be assigned and ratified by the entire City Council.

## **5-2 POWERS (2021)**

A. No Board, Commission, or Committee shall have the power to employ any person or incur any expense, unless specifically authorized by City Council.

B. Board, Commission, and Committee members may not speak or act for City Council except when formally given such authority for specific purposes.

C. Boards, Commissions, and Committee cannot exercise authority over Executive or Council staff.

D. Board, Commission, and Committee members do not report to individual Councilmembers. Boards, Commissions, and Committees shall take direction from the City Council as a body with the majority of Councilmembers in favor, not individual Councilmembers.

E. Boards, Commissions, and Committees should consider the interest of all citizens of Colorado Springs and make recommendations to City Council accordingly.

## **5-3 ATTENDANCE**

A. Board, Commission, and Committee members presence at a meeting may be achieved electronically and/or telephonically with the approval of the Chair.

B. Board, Commission, and Committee members shall vacate the office in accordance with City Code Section 1.2.905.

## **5-4 TERMS OF CITY COUNCIL APPOINTED BOARDS, COMMISSIONS, AND COMMITTEES MEMBERS (2021)**

A. All appointed members of City Council Boards, Commissions, and Committees shall be eligible for re-appointment to a second term at the conclusion of their first term unless there is dissention from a Councilmember or the Chair/Vice-Chair of the Board, Commission, or Committee.

B. Alternate members of City Council Boards, Commissions, or Committees shall be eligible for promotion to full members of a Board, Commission, or Committee without having to re-interview unless there is dissention from a Councilmember or the Chair/Vice-Chair of the Board, Commission, or Committee.

C. Terms of appointed City Council Board, Commission, or Committee members shall be staggered in one year increments, unless otherwise set forth in the establishing legislation. When a vacancy occurs due to a resignation, the new appointee to the City Council Board, Commission, or Committee shall fill the unexpired term.

D. City Council may designate an Alternate Member to a specific Board seat, if applicable (2022).

#### **5-5 INTERVIEW PROCESS FOR CITY COUNCIL APPOINTED BOARDS, COMMISSIONS, AND COMMITTEES (2021)**

A. In accordance with City Code Section 1.2.901.E, when a vacancy occurs on a City Council Board, Commission, or Committee due to resignation, removal, or term limits, and no qualified alternate is available, a City Council-led interview process shall commence. Notice of the upcoming or current vacancy shall be made available to members of the public. Applications for the vacancy shall be open for no less than fourteen (14) days after members of the public are notified. Councilmember liaisons will review the applications of those that applied and determine which applicants to interview. The interview committee will consist of at least one Councilmember liaison, Chair and/or Vice Chair of the Board, Commission, or Committee, and Executive or Council staff liaison, if possible. If the Board seat is designated to a specific Council District, the District Councilmember will be invited to participate in the complete interview process. Upon conclusion of the interviews, the Councilmember liaison(s) will recommend applicants for appointment to a Board, Commission, or Committee. The recommendation shall be placed on the next available Regular Meeting for City Council consideration (2021; 2022).

B. If the Councilmember liaison does not review the applications and commit to interview schedule within fifteen (15) business days from receipt of the application packet, the President may assign another Councilmember to complete the process (2022).

#### **5-6 CITY COUNCIL APPOINTED BOARDS, COMMISSIONS, AND COMMITTEES ANNUAL REPORTS AND RECERTIFICATION (2021)**



A. In accordance with City Code Section 1.2.907, City Council Appointed Boards, Commissions, and Committees shall provide annual reports of activity to the City Council or shall provide such reports as frequently as required by specific direction of Council. Such report should be submitted no later than a date administratively established by City Council. Such dates shall be based on the operational activities of each Board, Commission, and Committee. City Council may request that annual reports be presented at a Work Session. All annual reports shall be provided to the City Council electronically. Reports should include a summary of Board, Commission, or Committee activities and policy and/or budget recommendations. After reviewing annual reports, City Council may make a recertification determination for each Board, Commission, or Committee. City Council may also modify establishing legislation to better align with advisory needs of City Council. City Council may request specific advisory recommendations from the Board, Commission, or Committee. City Council may request additional or more frequent reporting if necessary.

## **PART 6 - PUBLIC HEARINGS**

### **6-1 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 of 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 City Council on motion. (2011)

B. 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 City Council will discuss the item and render its decision.

C. Any person speaking may be questioned by a Councilmember. The City Council, at its discretion, may establish a reasonable time limit for each speaker.

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)

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

E. All parties who desire to submit exhibits to the City Council for the purposes of inclusion in the record shall submit twelve (12) copies to the City Clerk who shall mark the exhibit and distribute it to the City Council. A digital copy may also be submitted to the City Council Administrator. One (1) copy of each exhibit may be displayed so that all of City Council can simultaneously observe it. (1982; 2000; 2011; 2021)

### **6-2 GENERAL PROCEDURES FOR QUASI-JUDICIAL MATTERS (2021)**

A. 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 codified policy considerations to past or present facts developed at a hearing

conducted for the purpose of 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 action. 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. § 49.77 (3d ed.)). 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).

B. The City Council shall not solicit and shall endeavor to refrain from receiving information and evidence that is not included in the staff-provided materials provided in the record for quasi-judicial matters while such matter is pending before the City Council or any agency, Board, Commission or Committee thereof, except at the public hearing. City Council may request that staff provide additional information in the public record or present additional evidence at the public hearing. As an elected official, it is often impossible to avoid such contacts and exposure to information. Therefore, if any Councilmember 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. Individual site visits by City Councilmembers may occur if in conformance with the standards set forth above and should be disclosed before the public comments period is opened along with any impressions following such site visits. If City Council receives written individual information on quasi-judicial actions, a copy shall be made and/or provided for the rest of City Council. When *ex parte* contacts and communications occur, members shall refrain from stating a position for or against any pending quasi-judicial matters, or those matters the member knows are likely to become quasi-judicial matters, prior to the conclusion of hearing. 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 after matters are pending are not considered *ex parte* contacts and are permitted.

C. Applicants and appellants will each have standing as a party and generally be limited to thirty (30) minutes per side during quasi-judicial hearings. Those offering testimony who are not applicants or appellants will generally be limited to three (3) minutes per person. Time limits may be modified at the discretion of the President. In appeals from decisions of subordinate boards and commissions and hearing officers, City Council reserves the right to limit the hearings to the matters raised on appeal (2022).

D. An opponent of an application shall have standing as a party at a quasi-judicial hearing if the opponent either (i) appealed the decision of the Planning Commission or other subordinate City Boards, Commissions, or Committees, or (ii) appealed an administrative decision and the appeal was subsequently upheld by the Planning Commission or other subordinate City Boards, Commissions, or Committees. (2022)

E. The order of the hearing for quasi-judicial items appealed from or considered by the Planning Commission or other subordinate City Boards, Commissions, or Committees 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 Board, Commission, or Committee action for the record.
- 2) Any opponent of the application who has standing as a party (as set forth above), shall describe the nature of the appeal or opposition and present evidence (2022).
- 3) The applicant shall present evidence in support of the project.
- 4) Any others in support of the applicant shall present their evidence.
- 5) Those opposing the application shall present evidence.
- 6) A short rebuttal by the applicant shall be limited to issues raised in preceding testimony or argument. No new evidence shall be presented during rebuttal.
- 7) Final comments from the applicant or other parties are allowed with permission of the President only.
- 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.
- 10) City 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 recorded proceedings, meeting minutes, if available, and other documentation prior to voting.

F. Electronic and/or Telephonic Quasi-Judicial Hearings

1) Quasi-judicial hearings may be held in electronic and/or telephonic formats as determined by the President. If during the course of the electronic and/or telephonic quasi-judicial hearing the City's means of conducting the hearing fails and results in the loss of either a quorum of the City Council, the advisory board, commission, or committee, or presence of the appointed officer, licensing official, or hearing officer, or of the ability of the applicant or members of the public to participate, the hearing shall immediately be postponed until such time as the resumption of the electronic and/or telephonic means for conducting the hearing. Failure of electronic and/or telephonic capabilities of an applicant or member of the public shall not require immediate postponement of the quasi-judicial hearing.

**6-3 GENERAL PROCEDURES FOR CONFIRMATION OF MAYORAL APPOINTEES (2014; 2021)**

A. The City Council is required by City Charter section 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, "Mayoral appointee"). In considering a Mayoral appointee for confirmation, City Council should limit their review to the Mayoral 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 Mayoral appointee selection process; the Mayoral appointee's qualifications relative to other candidates considered but not selected for appointment; or matters not directly relevant to the Mayoral 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.

1) If the Mayor desires City Council representation on the selection committee, the President, in consultation with the Mayor, shall select and appoint one (1) or two (2) Councilmembers to serve on the Mayoral appointee candidate selection committee. The Councilmember(s) shall serve at the discretion of the Mayor and the Councilmember(s) duties on the selection committee shall be 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 a Mayoral appointee. The details of the Mayoral appointee's application, resume,

curriculum vitae, references, and background information may be released by the administration to the entire City Council upon commencement of the confirmation process. Councilmembers shall keep confidential any information in the confirmation packet that is not subject to public disclosure pursuant to the Colorado Open Records Act or any other applicable law.

2) Upon the Mayor's notification to City Council that a Mayoral appointee has been recommended, the City Council shall commence the following confirmation procedure:

3) The Mayor may notify City Council by contacting the President in person, by telephone, or by delivering a written or emailed request for confirmation of the Mayoral appointee.

4) Within two (2) business days of the Mayor's notice to City Council, the Mayor or the Mayor's designee shall forward to City Council the confirmation packet, which will include the advertised position description for the office the Mayoral appointee will hold, the Mayoral appointee's application, resume, curriculum vitae, references, background information, and the proposed salary. 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 Mayoral 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 process must commence within thirty (30) days after receipt of the confirmation packet.

5) If one or more Councilmembers served on the Mayoral appointee candidate selection committee, the Councilmember(s) shall be available to discuss one-on-one with other Councilmembers the Mayoral 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.

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

7) Within five (5) business days of the City Council's receipt of the confirmation packet, the President or designee 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 Mayoral 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 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.

8) 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 City Council Administrator or designee shall distribute the confirmation schedule to the City Council and coordinate the confirmation events set forth in the confirmation schedule.

#### B. City Council Action

1) Events of Consideration Prior to Formal Confirmation.

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 Mayoral 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 Mayoral appointee individually by phone or video conference. Travel costs for out-of-town Mayoral appointees shall be paid by the Administration.

2) Formal Consideration of the Confirmation Request.

a. Confirmation shall be considered as Mayor's Business at a Regular Meeting or Special Meeting of the City Council.

b. The Mayor or designee may make a presentation and request confirmation of the Mayoral appointee. The Mayoral appointee, if present, may address the City Council. The City Council may inquire into the Mayoral 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 Mayoral appointee's education, training, experience, and any other matters relevant to the appointee's qualifications or ability to fulfill the duties of the position.

c. Councilmembers, the Mayor or designee, or the Mayoral 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 Mayoral appointees, except the City Attorney, shall be confirmed by the passage of a resolution receiving a concurring vote of five (5) Councilmembers. The Mayoral appointee's confirmation resolution shall set forth the name of the Mayoral appointee, the position to be held by the Mayoral appointee and any other terms of the Mayoral appointee's service the Mayor includes.

e. The City Attorney shall be confirmed by the passage of an ordinance receiving a concurring vote of five (5) Councilmembers. 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 Mayoral appointee's service the Mayor includes.

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 section 4-40(f).

3) Councilmembers shall keep confidential any information in the confirmation packet that is not subject to public disclosure pursuant to CORA or any other applicable law.



## **PART 7 - COUNCILMEMBER CONDUCT**

### **7-1 COUNCILMEMBER INVESTIGATIONS**

A. Whenever a verbal or written communication is received by other Councilmembers, City Council Appointees, or City Council employees stating allegations of misconduct about a Councilmember, City Council shall schedule a Closed Executive Session to discuss. If deemed merited by City 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 City Council. If the complaint merits further investigation, the third-party investigator shall make a report to the City 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 City Council. By adoption of this rule, City Council authorizes an annual budget item for the purposes of retaining an independent third-party investigator. (1995; 2000)

### **7-2 GENERAL PROCEDURES FOR WAIVER OF ATTORNEY-CLIENT PRIVILEGED COMMUNICATIONS**

A. The attorney-client relationship between the City Attorney's Office and the City is established in City Charter Section 13-80. The following process should be utilized to determine whether there is a knowing waiver by Council of attorney-client privileged communications for matters within the power and authority granted to Council by the City Charter:

- 1) If the matter is not time sensitive, the City Attorney or designee will discuss options to waive the attorney-client privilege during a closed executive session. A decision to waive the attorney-client privilege will be done in open session at a regular meeting.
- 2) If the matter is time sensitive, the City Attorney or designee may poll Councilmembers to determine whether a majority of Council authorizes waiver of the attorney-client privilege by any method or means the City Attorney or designee determines is reasonable under the circumstances. The City Attorney will inform Council of the outcome of the poll as soon as practicable. If waiver of the attorney-client privilege is not unanimous, the matter should be discussed at a closed executive session.

### **7-3 RIGHT OF FLOOR**

A. When recognized by the President, a Councilmember shall confine comments to the question under debate, avoid personal attacks, and refrain from impugning the motives of any other Councilmember's argument or vote.

### **7-4 CITY COUNCIL REQUESTS OR DIRECTION (2011; 2021)**

A. Although individual Councilmembers are encouraged to freely communicate with the Mayor, City Attorney, City Clerk and other Executive staff, Councilmembers should refrain from giving individual direction to persons who report directly to the Mayor. Individual requests or instructions of Councilmembers are not binding on the Mayor, City Attorney, City Clerk or City Council Appointees. In the case of Councilmembers requesting information or assistance without City Council authorization, the Mayor, City Attorney, City Clerk, or City Council Appointees may refuse such requests that require, in their opinion, a material amount of staff time, funds, or are disruptive. Councilmembers and City Council Appointees may bring such requests to the entire City Council for consideration. City Council, as a body and individual Councilmembers will refrain from evaluating, either formally or informally, the overall job performance of any staff other than City Council Appointees. (2000; 2011)

### **7-5 VOTING**

A. Every Councilmember present in Council Chambers, or electronically, at a City Council meeting must vote on every item before City Council unless it would constitute a conflict of interest under the City Charter or City Code of Ethics. Councilmembers shall leave the hearing regarding any item on which they are recused. (2000; 2021, 2022)

### **7-6 MONITORING PERFORMANCE**

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

### **7-7 CODE OF CONDUCT**

A. Councilmembers shall represent 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 shall come properly prepared for City Council Meetings.

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

D. Individual Councilmembers shall never lead the public or media to have the impression that City Council Appointees are acting improperly. If an individual Councilmember believes a City Council Appointee is acting improperly, the matter shall be discussed and decided by City Council.

E. Councilmembers shall 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 City Council as provided in City Charter Section 3-50 and/or subject to the complaint process set forth in the City Code of Ethics.

F. Councilmembers shall avoid engaging in private discourse or committing any other act which may tend to distract the attention of the City Council or the members of the public from business before the City Council, or which might interfere with any person's right to be heard after recognition by the conducting Councilmember.

G. Violations of decorum or conduct of Councilmembers shall be resolved by the President.

#### **7-8 DECORUM (2021)**

A. Councilmembers should strive to develop an atmosphere of civility that is respectful of diverse opinions. Councilmembers should act with decency towards other Councilmembers, staff, and members of the public at all times. A Councilmember should not impugn or demean another Councilmember, staff or member of the public. Councilmembers should be welcoming to other Councilmembers, staff, and members of the public. Every effort should be made to be fair and impartial in listening to other Councilmembers, staff, and members of the public. Councilmembers should be aware of body language, tone of voice, and word choice as not to appear intimidating or aggressive towards other Councilmembers, staff, or members of the public. Councilmembers should not make personal comments about other Councilmembers or their opinions and actions that may be perceived as derogatory or defamatory.

#### **7-9 COMPUTER USAGE AND COMPUTING ENVIRONMENT**

A. The City provides computer systems for use by Councilmembers in the conduct of official business. City Councilmembers must adhere to City computer usage policy. Inappropriate usage of computer and technology will be addressed by the Mayor through the President of the Council. (2011; 2021)

## **PART 8 – ADMINISTRATIVE OPERATIONS**

No Councilmember 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. Councilmembers shall abide by additional prohibitions as set forth by City Code Section 5.2.3. (2021)

### **8-1 COMMUNICATIONS ADDRESSED TO CITY COUNCIL CONCERNING ADMINISTRATIVE MATTERS**

A. City communications addressed to the City Council that require administrative action shall be referred to the Mayor or appropriate Executive staff member for response. Communication matters regarding Colorado Springs Utilities are directed by Utilities Board policies.

### **8-2 FINANCES (2021)**

A. Annually, as part of the City Council department budget process, Councilmembers shall, by majority decision, determine per Councilmember budget cycle allocation for travel and other allowed expenditures. Councilmembers may spend the funds allocated to the Councilmember from the City Council department budget on the following items without further City Council authorization, excluding out of state travel:

- 1) Mileage used in the course of official City business.
- 2) Meals for the Councilmember related to the official or ceremonial functions of the Councilmember.
- 3) The Councilmember's admission to and meals at events related to City business or the Councilmember's official or ceremonial duties.
- 4) Dues for organizations to which the Councilmember belongs, provided that the membership must be related to the official or ceremonial duties of City Council.

B. All out-of-state travel by a Councilmember must be authorized by City Council before expenditures or reimbursements shall be authorized. Any Councilmember intending to expend funds or obtain reimbursement for out-of-state travel and associated costs, will make such request to City Council at a time prior to the event. The request will be considered as an action item under Councilmember Discussion on the next Council Work Session meeting agenda. For the purposes of this Rule, out of state travel by the Councilmember includes attending conferences, trainings, 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 Councilmember.