



CITY COUNCIL WORKSHOP

Monday, June 26, 2023 at 6:30 PM

City Hall 8319 Co. Rd. 11 Breezy Point, MN 56472

(218) 562-4441 | Office Hours 8:00 a.m. - 4:00 p.m. | cityadmin@cityofbreezypointmn.us

AGENDA

1. DISCUSSION ON DRAFT RULES OF CONDUCT AND PROCEDURE

[Draft](#) Rules of Conduct and Procedure

CITY OF BREEZY POINT

RULES OF CONDUCT AND PROCEDURE

CITY COUNCIL AND CITY BOARDS/COMMITTEES/COMMISSIONS

Section I: Preamble

Subd. 1 Purpose: These rules are designed to prescribe the manner in which the members of the City Council and all the City's boards, commissions, and committees are to interact with one another, city staff, consultants, and the public. They acknowledge that it is essential that legislative bodies establish formal rules of conduct and procedure to enhance effective and democratic governance. Furthermore, they set the standard by which the public may interact with its governing body.

Subd. 2 Authority: The City Council is authorized to adopt rules of conduct and procedure pursuant to Minnesota Statute § 412.191.

Subd. 3 Applicability: These rules shall apply to committees of the City Council as well as all boards and commissions established by the City Council. "City Council" shall be substituted with "Committee," "Commission" or "Board" as applicable. Additionally, "councilmembers" shall be substituted with "committee members" or "commission members" as applicable, and "mayor" shall be substituted with "presiding officer" or "chair" as applicable.

Subd. 4 Rights of Councilmembers: All councilmembers are equal and have the same rights to make motions; object to motions in a timely manner; participate in debate; have their votes counted; and speak, when recognized, free of interruption.

Subd. 5 Obligations of Councilmembers: Councilmembers are obligated to receive the recognition of the mayor before speaking, except as otherwise provided by these rules. No one has the right to speak at whim. Councilmembers are obligated to speak directly on the subject being considered and observe time limits for comment. Finally, councilmembers are obligated to address all remarks to the mayor, avoid personal attacks, and refrain from using any insulting or demeaning language or indecent or threatening behavior. Additionally, all councilmembers should:

- Fully participate in City Council meetings and other public forums while demonstrating respect, kindness, consideration, and courtesy to others.
- Prepare in advance of meetings and be familiar with issues on the agenda.
- Be respectful of other people's time.
- Stay focused and act efficiently during public meetings.
- Serve as a model of leadership and civility to the community.
- Inspire public confidence in Breezy Point government.
- Demonstrate honesty and integrity in every action and statement.
- Participate in scheduled activities.

Section II: Meeting Governance

Subd. 1: Presiding Officer: The Mayor shall preside at all meetings of the City Council. In the absence of the mayor, the vice-mayor shall preside. The presiding officer shall have the power to preserve strict order and decorum at meetings, enforce the rules of procedure and determine without debate, subject to the final decision of the City Council on appeal, all questions of procedure and order. The presiding officer shall determine which member has the right to speak and may move matters to a vote once the officer has determined that all members have spoken. The presiding officer may determine whether a motion or proposed amendment is in order and may call members to order.

Subd. 2: Rights of the Presiding Officer: The presiding officer may speak on any question. The presiding officer should only make motions and second motions if no other councilmember offers a motion or seconds a motion.

Subd. 3: Appeals of the Presiding Officer's Decisions: Any member of the City Council may appeal from a ruling of the presiding officer. If the appeal is seconded, the member may speak once solely on the matter at hand. The presiding officer may explain the ruling, but no other councilmember shall participate in the discussion. The ruling of the presiding officer shall be final.

Section III: Agenda

Subd. 1 Matters of Consideration: Matters for consideration by the City Council shall be submitted by members of the City Council and residents to the City Administrator or to the designated city staff member in the case of committee business.

Subd. 2 Agenda Development: An agenda of business for each regular and special meeting shall be prepared in the Office of the City Administrator or by the designated city staff member in the case of committees and copies thereof delivered to each councilmember as far in advance of the meeting as time for preparation will permit.

Subd. 3 Agenda Outline: At the hour appointed for the regular meeting of the City Council, the meeting shall be called to order by the presiding officer. If a quorum is present, the City Council shall then proceed with its business in the following order as applicable:

- Call to Order
- Role Call
- Approval/Amendment of the Agenda
- Public Forum
- Presentations (when applicable)
- Items of Public Interest (when applicable)
- Consent Agenda
- Items Removed from the Consent Agenda

- New Business
- Old Business
- Staff Reports
- Mayor and Council Reports
- Adjourn

Subd. 4 Alterations of Agenda Outline: The order of business may be altered by the presiding officer or by majority vote of the City Council at the time the agenda is approved/amended.

Subd. 5 Consent Agenda: Matters for approval by the City Council of a routine or non-controversial nature which need minimal deliberation shall be placed on the Consent Calendar. A motion to approve the Consent Calendar shall not be debated. Following a majority vote of the City Council, an item shall be removed from the Consent Calendar and placed upon the regular agenda for debate immediately following the Consent Calendar.

Subd. 6. Matters Not on the Agenda: Debate and discussion shall be limited to matters on the agenda, and the presiding officer shall ensure discussion and debate on any given matter is limited to the matter at hand. The City Council may consider matters not appearing on the agenda as normal business if such a matter is added to the agenda by majority vote of the City Council during the approval/amendment of the agenda. Matters not on the agenda that are raised during the Staff Reports or Mayor and Council Reports sections of the agenda may be discussed but no action shall be taken. If an objection is raised by the mayor or a councilmember to discuss an item not appearing on the agenda during the Staff Reports or Mayor and Council Reports sections of the agenda, a vote shall be taken by the City Council to determine the appropriateness of further discuss of the matter at that time.

Section IV: Meeting Procedure

Subd. 1 Motions: All formal actions of the city council must be by motion. Councilmembers may make only one motion at a time.

Subd. 2 Consideration of Motions: All motions shall receive a second prior to debate on the motion being conducted. If the motion does not receive a second, it shall not be debated. Once a motion has been made and seconded, the presiding officer shall open the motion up for debate. Any motion the does not directly address the matter at hand, shall be considered as out of order and shall not be debated or considered. Once debate has concluded, the presiding officer shall restate the motion and call for a vote on the issue. A motion shall be considered passed if it receives a majority vote of those present at the meeting, unless otherwise required by law.

Subd. 3 Objections to a Motion: A motion may be considered to be out of order if the motion does not directly address the matter at hand, has not been made at a proper time in the proper format, violates any applicable rules of law, ordinance, or city policy, including city policies on decorum and civility, or has been made for the purpose of unduly delaying the proceedings. If a

councilmember objects to a motion for any of the above reasons, such an objection shall be made immediately following the motion and at no other time. Once an objection has been made, the presiding officer shall determine whether the motion is in order. Prior to making such a determination, the presiding officer shall, first, allow the objector to speak to the objection and, second, allow the maker of the motion speak to the concerns of the objector. No other councilmembers shall speak to the objection or the motion. Once the objector and the maker of the motion have spoken, the presiding officer shall make a determination whether the motion is in order. Motions considered out of order shall not be considered. The presiding officer's determination shall be considered final.

Subd. 4 Voting: The votes of the members on any motion shall be by voice vote unless the mayor or any councilmember requests that a roll call vote be taken. The presiding officer shall call for a roll call vote at the request of the City Clerk whenever a voice vote of the City Council is not clear as to the disposition of the action before the Council.

Subd. 5 Abstentions: A member may only abstain from a vote on a motion if the member has a bonafide conflict of interest. Such a conflict of interest shall be publicly stated prior to a vote being held.

Section V: Public Participation

Subd. 1 Times for Public Participation: Comments from the public are restricted to the public forum periods, noticed public hearings, and public comment periods as determined by the presiding officer or by majority vote of the City Council. City Council meetings are the forum for the City Council to conduct the city's business. While City Council meetings are open to the public pursuant to the Minnesota Open Meeting Law, they are not a forum for public expression. Members of the public are not allowed to participate in council discussion and debate without a specific invitation by the presiding officer. Members of the public shall not applaud, engage in conversation, or engage in other behavior through words or actions that may disrupt the proceedings of council.

Subd. 2 Rules for Public Participation: Members of the public shall adhere to the following rules when addressing the City Council:

- Identify themselves and their address for the public record.
- Direct their remarks to the presiding officer.
- Abstain from the use of obscene, profane, or threatening language.
- Comments shall be kept within the time limit set by the presiding officer.
- Honor the role of the presiding officer in facilitating public participation.

Subd. 3 City Council Role in Public Participation: When receiving comments from the public, councilmembers shall adhere to the following guidelines:

- Actively listen to each speaker.

- Refrain from making comments approving or disapproving of any comments received.
- Refrain from debating comments with members of the public or amongst themselves.
- Members may ask follow-up/clarifying questions but shall refrain from issuing opinions or comments on any comments made by members of the public until the public hearing or public comment period has been closed.
- Honor the role of the presiding officer in facilitating public participation.

Subd. 4 Facilitation of Public Participation: The presiding officer shall facilitate all public participation. As such, the presiding officer may:

- Request that the public appoint a spokesperson when it appears that multiple speakers will speak on the same topic.
- Place a time limit on or defer the public comment period.
- Alter rules to meet legal requirements for public hearings as required by law.

Section VI: Code of Conduct

Subd. 1 Conduct In Public Meetings: In the context of a public meeting, all members of the City Council, staff, and the public shall:

- **Practice civility, professionalism and decorum in discussions and debate**
Difficult questions, challenges to a particular point of view, and criticism of ideas and information are legitimate elements of a free democracy in action. This does not allow, however, councilmembers, members of the public, or staff to make belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging comments. No shouting or physical actions that could be construed as threats will be tolerated. All councilmembers, members of the public, and staff should conduct themselves in a professional manner at all times.
- **Be welcoming and treat others with care and gentleness**
Speaking in front of a public body (whether as an elected official, committee member, staff, or a member of the public) can be a difficult experience for some people. Some issues the City Council undertakes may affect people's daily lives and homes. Some decisions are emotional. The way that people are treated during public meetings can do a lot to make them relax or to push their emotions to a higher level of intensity. Deescalating a situation will lead to a more productive outcome for all involved and the community as whole.
- **Be an active listener**
It is disconcerting to speakers to have people not look at them when they are speaking. It is fine to look down at documents or to make notes, but reading for a long period of time or gazing around the room gives the appearance of disinterest. Be aware of facial expressions, especially those that could be interpreted as "smirking," disbelief, anger or boredom.
- **Ask for clarification, but avoid debate and argument in public**
Only the presiding officer – not individual councilmembers, staff, or a member of the public – may interrupt a speaker during a presentation. However, a councilmember may ask the presiding officer to address the situation if the speaker is off the topic or exhibiting behavior or language the councilmember finds disturbing. If speakers become flustered or defensive by questions from the City Council, it is the responsibility of the presiding officer to calm and focus the speaker and to maintain the order and decorum of the meeting. Questions by councilmembers to members of the public testifying should seek

to clarify or expand information. It is never appropriate to belligerently challenge or belittle the speaker. Councilmembers' personal opinions or inclinations about upcoming votes should not be revealed until after the public hearing or public comment period is closed.

- **Honor the role of the presiding officer in maintaining order**

It is the responsibility of the presiding officer to keep the comments of councilmembers on track during public meetings. Councilmembers should honor efforts by the presiding officer to focus discussion on current agenda items.

- **Avoid personal comments that could offend other Councilmembers**

If a councilmember is personally offended by the remarks of another councilmember, the offended councilmember should note their concerns during the meeting, make notes of the actual words used, and request the other councilmember to justify or apologize for the language used. If a member of the public or staff is personally offended by the remarks of a councilmember or member of the public, the offended person should make note of their concerns and of the actual words used but should refrain from directly addressing the offense during the public meeting. The offended person should respectfully address the offense outside of the public meeting.

- **Demonstrate effective problem-solving approaches**

Councilmembers have a public stage to show how individuals with disparate points of view can find common ground and seek a compromise that benefits the community as a whole.

- **Be punctual and keep comments relative to topics discussed**

Councilmembers have made a commitment to attend meetings and participate in discussions. Therefore, it is important that the councilmembers be punctual and that meetings start on time. It is equally important that discussions on issues be relative to the topic at hand to allow adequate time to fully discussed scheduled issues. Staff should also come prepared to answer questions and provide professional input. Members of the public should strive to arrive to meetings on time in order not to disrupt the meeting and, when provided the opportunity, adhere to the rules for public participation as set in Section V.

Subd. 2 Conduct In Private Encounters: In the context of private encounters, whether in an open/public setting or in a private setting, all members of the City Council, staff, and the public shall:

- **Continue respectful behavior in private**

The same level of respect and consideration of differing points of view that is deemed appropriate for public discussions should be maintained in private conversations.

- **Be aware of the insecurity of written notes, voicemail messages, e-mail, text messages, "tweets," and social media**

Technology allows words written or said without much forethought to be distributed wide and far. Before recording or putting something in writing, consider:

- Would you feel comfortable having this message sent to others?
- How would you feel if a voicemail message was played on a speaker phone in a full office?
- What would happen if this e-mail or text message was forwarded to others?
- How would you feel if this comment, image, video, "tweet," or social media post went "viral" for the world to see and read?
- Written notes, voicemail messages, email and social media posts should be treated as potentially "public" communication. It is the responsibility of the City Council to be aware of and follow the City's Data Practices Policy and the Minnesota Government Data Practices Act ("MGDPA").

- If the communication is between councilmembers, could this conversation or written exchange, including emails, text messages, and other forms of electronic communication violate Minnesota's Open Meetings Law?
- **Acknowledge that even private conversations can have a public presence**
Elected officials, committee members, and City staff are always on display – their actions, mannerisms, and language are monitored by people around them that they may not know. Lunch table conversations will be eavesdropped upon, parking lot debates and arguments will be watched, and casual comments between individuals before and after public meetings noted. Before meetings are opened and after they are closed, councilmembers should avoid any pre- and post-meeting discussions amongst themselves, as such conversations could violate Minnesota's Open Meetings Law, or at least be perceived as a violation.
- **Make no promises on behalf of the City**
Councilmembers, committee members, and staff will frequently be asked to explain a City Council or committee action or to give their opinion about an issue as they meet and talk with constituents in the community. It is inappropriate to overtly or implicitly promise City Council or committee action, or to promise City staff will do something specific (fix a pothole, remove a library book, plant new flowers, approve a license or permit, install a traffic sign, etc.).

Subd. 3 Conduct with Staff: When communicated with staff, all members of the City Council and the public shall:

- **Treat all staff as professionals**
Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. Poor behavior towards staff is not acceptable.
- **Limit contact to specific City staff**
Questions of City staff and/or requests for additional background information should be directed to the City Administrator. The City Administrator may delegate the request to other members of staff as appropriate. However, the City Administrator shall be copied all communication with other members of staff. Requests for follow-up or directions to staff should be made only through the City Administrator. Materials supplied to a councilmember in response to a request will be made available to all members of the City Council so that all have equal access to information.
- **Do not disrupt staff from their jobs**
City staff should not be disrupted while they are in meetings, on the phone, or engrossed in performing their job functions in order to have their individual needs met. As a matter of courtesy and effective time management, councilmembers and members of the public should schedule appointments with staff in advance.
- **Never publicly criticize a specific employee**
Concerns about the performance of a City employee should never be expressed in public, to the employee directly, or to the employee's manager. Comments about staff performance should only be made to the City Administrator through private correspondence or conversation.
- **Do not get involved in administrative functions**
No member of the City Council or the public may attempt to influence City staff on the making of appointments, awarding of contracts, selecting of consultants, processing of development applications, or granting of City licenses and permits.
- **Limit requests for staff support**
Requests for additional staff support – even in high priority or emergency situations – should be made to the City Administrator who is responsible for allocating City resources in order to maintain a professional, well-run City government.

Subd. 4 Conduct Otherwise Not Listed: Conduct as described in subdivisions 1 through 3 is not an exhaustive list. Councilmembers, staff, and members of the public should always conduct themselves in a courteous and professional manner when interacting with each other whether in public or private. In addition to the aforementioned standards of conduct, all councilmembers, committee members, staff, consultants, suppliers, volunteers, customers, stakeholders, and members of the public shall conform to the City's harassment and offensive policy and workplace violence policy is described in the City's Personnel Policy.

DRAFT



Minnesota Mayors Handbook

April 2022



*Produced by the League of Minnesota Cities
for the Minnesota Mayors Association*



MINNESOTA MAYORS HANDBOOK

This *Minnesota Mayors Handbook* is a product of the Minnesota Mayors Association. Dues support this and other valuable interaction among Minnesota mayors to help them provide excellence in city governance.

The *Minnesota Mayors Handbook* is a summary resource for practical and legal issues concerning Minnesota city mayors. Appendices are suggested approaches but may be tailored to individual city needs. The text of the handbook contains general information and is not intended to be a substitute for legal advice. For legal advice the city should consult its attorney.

The purposes of the Minnesota Mayors Association are to:

- Provide opportunities for the mayors to meet as a separate group for:
 - Securing a closer official and personal relationship among the mayors of the state of Minnesota.
 - Discussing municipal problems affecting all persons holding the office of mayor.
 - Discussing those problems, responsibilities, and experiences unique to mayors as the elected heads of the state's municipal governments.
 - Securing unity of action in matters pertaining to the mayors and the state's cities.
 - Using the unity of action generated through the association in lobbying the interests of Minnesota cities before the Minnesota Legislature and the United State Congress.
- Assist in the furtherance of the objectives of the League of Minnesota Cities.

If you are not a member of the Minnesota Mayors Association, we invite you to be part of the action by filling out the application/invoice on the following page and joining your fellow mayors in the Minnesota Mayors



INVOICE

FOR MEMBERSHIP DUES IN THE MINNESOTA MAYORS
ASSOCIATION

Annual Dues for
Minnesota Mayors Association Membership.....\$30.00

Minnesota Mayors Association Membership Dues for:

Mayor _____

City _____

Mayor's E-mail (only) _____

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Send To: Minnesota Mayors Association
c/o Finance Department
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145 University Avenue West
St. Paul, MN 55103-2044

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Please return this form with payment. Questions regarding invoices may be referred to the League's Finance Department at (651) 281-1200.

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League of Minnesota Cities
145 University Avenue West
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Contents

Chapter 1: Introduction	3
I. Purpose	3
II. Scope and applicability	4
Chapter 2: Legal requirements	4
I. Statutory or home rule charter	4
II. Forms of city organization	5
A. Weak mayor-council	5
B. Strong mayor-council	5
C. Council-manager	6
III. Legal powers and responsibilities of the mayor	6
IV. Selected areas of law	8
A. Open Meeting Law	8
B. Data practices	9
C. Contracts	12
D. Budgeting	13
E. Land use	13
F. City as employer	14
Chapter 3: Meeting management	15
I. Role of the mayor in managing meetings	15
A. Role of presiding officer	15
II. Bylaws and rules of order	17
III. Meeting decorum	18
A. Typical decorum requirements	18
B. Enforcing decorum among council members	18
IV. Citizen input and audience participation in council meetings	19
A. Forums for public comment	19
B. Meeting disruptions and unruly citizens	20
C. Public hearings	21
V. Building an adequate record	22
A. Legal requirements for meeting records	22
B. Mayor's role in building an adequate record	25
Chapter 4: Mayoral Leadership	26
I. Key traits of successful mayors	26
II. Inspirational leadership	27

MINNESOTA MAYORS HANDBOOK

A.	Promoting citizen involvement	28
B.	Long-term planning.....	30
C.	New programs and initiatives	31
III.	Ethical leadership.....	31
A.	Key traits of ethical leaders.....	31
B.	Ethics laws and official conflict of interest	32
IV.	Mayor-council relationship.....	36
A.	Meetings and the mayor-council relationship.....	36
B.	Keys to team-building success	38
V.	Mayor-staff relations	38
A.	City staff and their roles.....	38
B.	Job direction and supervision	40
VI.	Conclusion.....	42

Chapter 1: Introduction

It's easy to understand why a person would be excited about becoming a newly elected or appointed mayor. It's a terrific hallmark in one's life. Serving a city says a lot about a person's sense of public responsibility! With conscientious leadership, the mayor is in a great position to help guide a city forward in policy and development.

But being a mayor isn't easy, and it's only natural that a new mayor would on occasion feel intimidated. The office of mayor requires commitment to service and a willingness to take on sometimes significant challenges for the benefit of the city. Even if the mayor and council do everything right, they may receive little gratitude, all the while being overworked and underpaid. When one realizes they have become the chair of a board for a corporation with assets of significant value, it is natural to feel overwhelmed by the responsibilities as well.

Enter the Minnesota Mayors Handbook.

I. Purpose

Being a mayor requires skills and knowledge not endowed by winning an election. While it is true there is a lot to know, it's also true there isn't just one way to be a successful mayor. No single source of information is enough to tell a mayor what to do and how to do it well, that being said, you are encouraged to use the Minnesota Mayors Handbook as a starting point.

This handbook starts with an overview of some of the most important laws every Minnesota mayor must be aware of as well as some general areas of law requiring careful consideration. Next, since the mayor is the presiding officer at meetings, the handbook discusses meeting and hearing management skills. The handbook then focuses on general leadership skills. Lastly, appendices include sample council bylaws and rules of order for meetings and hearings.

Again, this is merely a starting point for information. When it comes to municipal affairs, there are many places to find answers. One purpose of this handbook is to help a mayor know when to ask questions and where to find answers.

The [League of Minnesota Cities](#) is the secretariat of the Minnesota Mayors Association. Both can be reached at (651) 281-1200 or (800) 925-1122.

[Minn. Const. Art XII, § 4.](#)

[Minn. Stat. § 410.16.](#)

The [Handbook for Minnesota Cities Ch. 3: The Statutory City.](#)

The [Handbook for Minnesota Cities Ch. 4: The Home Rule Charter City.](#)

II. Scope and applicability

Since this handbook is not intended to be an exhaustive resource, finding additional places for information is a must. This handbook contains citations in the margins to Minnesota state statutes and other resources to help mayors find more information on a given topic. In addition to the city's administrative staff and attorney, mayors will find state agencies often have answers to their questions. Always remember when a problem comes along, it's likely someone somewhere in the state has run into the same sorts of issues. Don't hesitate to consult fellow mayors of the Minnesota Mayors Association or the staff of the League of Minnesota Cities. They have decades of collective experience and are always eager to help.

This handbook is, of course, for mayors of Minnesota cities. As such, it's written to generally describe the powers, authority, and responsibilities of mayors in most Minnesota cities. However, the state constitution allows for home rule charter cities, which can uniquely define mayoral roles and authority. On top of this, charter cities may have any administrative form of government "not inconsistent with [either] Constitution or statute." Given the variables this creates, mayors of charter cities should review their city's charter to see if their authority, powers, or responsibilities deviate from what is presented in this handbook.

Chapter 2: Legal requirements

This chapter is intended to provide an overview of legal powers and responsibilities of a mayor as well as some key areas of municipal law for mayors to know. There are some powers that all mayors possess by law but, many aspects of the office are affected by whether the city is a statutory city or a charter city. Additionally, a city's administrative structure will determine the extent of authority the mayor and council have over day-to-day affairs.

I. Statutory or home rule charter

The legal powers a mayor possesses mostly depend upon whether a city is governed by state statute alone, or by a home rule charter as well as state statute. The central difference between home rule charter cities and statutory cities in Minnesota is the enabling documents under which they operate:

- Statutory cities derive their powers from Minnesota Statutes, primarily from Chapter 412.
- Home rule charter cities obtain their powers from both statute and a home rule charter.

The mayor of a charter city could have more limited or more expansive powers than those of a mayor of a statutory city, depending upon what the charter says.

II. Forms of city organization

Cities in Minnesota generally use one of three administrative formats in their internal organization: weak mayor-council, strong mayor-council, and council-manager. There's overlap as well; almost all cities with a council-manager form of organization simultaneously follow a weak mayor-council form.

A. Weak mayor-council

The weak mayor-council plan is by far the most common plan in Minnesota. Under the weak mayor-council plan, administrative as well as legislative authority is the ultimate responsibility of the council as a whole. The only exception would be if under authority of statute or home rule charter, a city has an independent board, such as a utilities commission, to handle one or more specific functions.

The mayor's powers in the weak mayor-council system are no greater than those of other members of the council, except that the mayor is the presiding officer at council meetings and has a few other legal and ceremonial responsibilities listed below. The weak mayor has no extraordinary power to individually make administrative decisions for the city.

B. Strong mayor-council

The strong mayor-council plan is rare in Minnesota and can only appear in a home rule charter city. Only four cities in Minnesota operate under this form of government including Duluth, Minneapolis, St. Cloud, and St. Paul. Under the strong mayor-council plan, the mayor is responsible for the operation of all administrative agencies and departments within the city. Typically, a strong mayor has the following powers.

- Can appoint and remove department heads and other subordinate staff, subject to civil service provisions where applicable.
- Is not a council member but can veto council legislation subject to the right of the council to override the veto by an extraordinary majority.
- Prepares and administers a budget that the council approves.

These and other features can vary under city charter provisions.

Minn. Stat. § 412.541, subd. 2.
Minn. Stat. § 412.611.

C. Council-manager

Some home rule charter cities and statutory cities have a council-manager form of government. Under this form, the council has policy-making and legislative authority, but administration of the government is the responsibility of the council-appointed city manager. The manager is directly responsible to the council. The manager appoints department heads, usually without council approval.

In this form, neither the mayor, nor any other individual member of council, nor council as a whole typically has any decision-making authority in day-to-day administration of the city. Again, a home rule charter can modify this.

III. Legal powers and responsibilities of the mayor

The powers and responsibilities of a mayor may vary depending upon whether the city is a statutory city or governed by a home rule charter. Below are the basic powers of a mayor in a statutory city. A city charter may add to or limit this list.

Ceremonial head of the city. As the head of the city, the mayor often has certain responsibilities not found in statute but based on custom or tradition. For instance, the mayor may represent the city before other governmental bodies such as the Legislature. The public and media also usually regard the mayor as the official spokesperson for the city and its policies.

Minn. Stat. § 412.191, subd. 2.

See Chapter 3: Meeting Management.

Presiding officer at council meetings. In most cities, the mayor's greatest authority is that of presiding officer at council meetings. Though not a legal requirement, the presiding officer clearly has a responsibility to be impartial and objective in conducting the meeting. To maintain this objectivity, many mayors choose to minimize making or seconding motions and to allow other members of the council to speak before the mayor expresses their opinion.

Minn. Stat. § 412.191, subd. 2.

Calling meetings. Mayors can call a special meeting. Two members of a five-member council or three members of a seven-member council, can also call special meetings.

Minn. Stat. § 412.191, subd. 4.
Minn. Stat. § 412.201.

A.G. Op. 61-J (June 2, 1966).

Executing official documents. The mayor of a statutory city must sign ordinances, contracts authorized by the council, and written orders for payment of claims that have been audited and allowed by the council. These are ministerial duties, and the mayor may not refuse to sign if the purpose, approval, and form are legally correct and complete.

Power to make some appointments. While the power to appoint usually resides in the council as a whole, the mayor has authority to make the following appointments, subject to council approval:

Minn. Stat. § 412.501.

Minn. Stat. § 134.09, subd. 1.
Minn. Stat. § 134.195, subd. 2.

Minn. Stat. § 412.221, subd. 16.

Minn. Stat. § 44.04, subd. 1.

Minn. Stat. § 469.003, subd. 6.

Minn. Stat. § 469.095, subd. 2.

Minn. Stat. § 450.20.

Minn. Stat. § 12.25, subd. 1.

Minn. Stat. § 412.02, subd. 2a.

Minn. Stat. § 204C.07, subd. 3.
Minn. Stat. § 204C.31, subd. 1.

Minn. Stat. § 12.29, subd. 1.
Minn. Stat. § 12.29, subds. 2, 3.

Minn. Stat. § 18.80, subds. 2, 3.
Minn. Stat. § 18.81, subd. 2.

Minn. Stat. § 299F.04.

Minn. Stat. § 412.02, subd. 1a.

- Park board members (for a non-advisory park board).
- Public library board members.
- Hospital board members.
- Some civil service commission members.
- Housing and redevelopment authority members.
- Economic development authority members.

The mayor has authority to make the following appointments without council approval:

- City art commission members (First Class cities).
- Director of the local organization for emergency management.
- Filling a vacancy on council if the council vote to fill the vacancy is tied.

Election duties. Mayors of all cities have election responsibilities. At elections where residents will vote on a question, the mayor, upon receiving a written petition signed by at least 25 eligible voters, must appoint one voter for each precinct to act as a challenger of voters in the polling place. Also, the mayor of the most populous municipality in a given county (or the mayor's designee) serves as a member of that county's canvassing board.

Declaring local emergencies. Only the mayor can declare a local emergency. A local emergency cannot last for more than three days except with the consent of the city council. A local emergency must receive prompt and general publicity.

The next two powers, while still found in statute, are largely regarded as vestiges of a bygone era.

Weed inspector. The mayor is the city weed inspector. The city may appoint one or more assistant weed inspectors to fulfill the mayor's statutory weed inspector obligations.

Fire investigator. In cities without fire departments, the mayor must investigate or have investigated the cause, origin, and circumstances of any fire where damages exceed \$100. The investigation must begin within two days of the fire. The mayor must report the fire to the state fire marshal. Within one week of the fire, the mayor must furnish a written statement to the state fire marshal.

All this without being a full-time employee! Neither the mayor, nor a council member, may be a full-time, permanent city employee.

But not so fast . . . In light of changes to state law and perhaps a myth or two, here are a few powers mayors do not have:

- Designation as the head of the police department (repealed).
- An automatic seat on the fire relief board (repealed).
- The duty of grasshopper inspector (repealed).
- The ability to marry people by virtue of the office (myth).

IV. Selected areas of law

There are a few major areas of municipal law of which every mayor should be aware simply because they are full of traps and easy to get wrong. Some include a particular role for the mayor, some do not, but they are all integral components to running a municipal corporation. This handbook is not intended to tell a mayor everything they need to know about the law, or even these areas. But it should give a mayor enough information to know when to be cautious and find out more.

A. Open Meeting Law

With only a few exceptions, all city council meetings or gatherings must be noticed and open to the public. This rule applies not only to meetings of council, but meetings of any committee or subcommittee of council, as well as any board, department, or commission formed under the city's authority.

The law does not define the term "meeting." The Minnesota Supreme Court, however, has ruled that under the Open Meeting Law, meetings are gatherings where a quorum or more of the council or other governing body, or of a committee, board, department, or commission of the city council or other governing body are present, and at which the members intentionally discuss, decide, or receive information as a group on issues relating to the official business of that body.

The Open Meeting Law does not generally apply in situations where less than a quorum of the council is involved. However, serial meetings in groups of less than a quorum that are held in order to avoid the requirements of the Open Meeting Law may be found to violate the law, depending on the specific facts. As a result, while a mayor can call special meetings, in order to avoid the appearance of a serial meeting, the mayor should not call a special meeting by directly contacting other council members.

In most cities, the mayor has the authority to lead meetings. Therefore, it's critical the mayor be familiar with the Open Meeting Law and its exceptions. Again, meetings of council must generally be noticed and open to the public. In two cases, however, the council must close a meeting:

Minn. Stat. § 13D.01, subd. 1.

Moberg v. Indep. Sch. Dist. No. 281, 336 N.W.2d 510 (Minn. 1983). *St. Cloud Newspapers, Inc. v. Dist. 742 Community Schools*, 332 N.W.2d 1 (Minn. 1983).

Minn. Stat. § 412.191, subd. 2.

Minn. Stat. § 13D.05, subd. 2(b). Minn. Stat. § 13.43, subd. 2(4).

Minn. Stat. § 13D.05, subd. 2.

Minn. Stat. § 13D.03. Minn. Stat. § 13D.01, subd. 3.

Minn. Stat. § 13D.05, subd. 3. Minn. Stat. § 13D.01, subd. 3.

Minn. Stat. § 13D.05, subd. 3. *Prior Lake American v. Mader*, 642 N.W.2d 729 (Minn. 2002).

Minn. Stat. § 13D.05, subd. 3.

Minn. Stat. § 13D.05, subd. 3.

Minn. Stat. § 13D.05, subd. 1 (d).

Minn. Stat. ch. 13.

- Meetings for preliminary consideration of allegations or charges against an individual subject to the public body's authority (unless the individual wants the meeting held open).
- Portions of meetings at which the council discusses data that would identify alleged victims or reporters of criminal sexual conduct, domestic abuse, or maltreatment of minors or vulnerable adults; internal affairs data relating to allegations of law enforcement personnel misconduct or active law enforcement investigative data; educational data, health data, medical data, welfare data, or mental health data that are non-public data, or; an individual's medical records governed by the Minnesota Health Records Act.

And in the following five cases, the council has the option close the meeting:

- Meetings to consider strategies for labor negotiations.
- Meetings to evaluate the performance of an individual subject to the public body's authority (unless the individual requests the meeting held open).
- Meetings between council and its attorney to discuss active, threatened, or pending litigation when the balancing of the purposes served by the attorney-client privilege against those served by the Open Meeting Law dictates the need for absolute confidentiality.
- Meetings to determine the asking price for real or personal property to be sold, review confidential or protected nonpublic appraisal data, or develop/consider offers or counteroffers for the purchase or sale of property.
- Meetings to receive security briefings and reports, to discuss issues related to security systems, to discuss emergency response procedures, and to discuss security deficiencies in, or recommendations regarding, public services, infrastructure, and facilities.

Except for meetings closed under the attorney-client privilege, all closed meetings must be electronically recorded.

B. Data practices

Cities are often asked to release information. In doing so, every city in Minnesota must comply with the Minnesota Government Data Practices Act (MGDPA). Government data means all data collected, created, received, maintained, or disseminated by the city regardless of its physical form, storage media, or conditions of use. This would include data one receives or creates in the capacity of mayor.

Minn. Stat. § 13.02, subd. 16.
Minn. Stat. § 13.03, subd. 2.
Minn. Stat. § 13.05, subd. 13.

Minn. Stat. § 13.05, subd. 13.

Minn. Stat. § 13.072.

To request an advisory opinion, write to the [Commissioner of Administration, c/o Data Practices Office](#), 201 Administration Building, 50 Sherburne Ave. St. Paul, Minnesota 55155, (651) 296-6733 or (800) 657-3721.
DPO [opinions](#).

Minn. Stat. § 13.08.

Minn. Stat. § 13.085.

Navarre v. South Washington County Sch., 652 N.W.2d 9 (Minn. 2002).

The Act presumes that government data are public and are accessible by the public for inspection and copying unless there is a federal law, state statute, or temporary classification of data classifying the data as not public or private.

If a city receives a request for government data, it is the role of the city-appointed “responsible authority” or their designee to respond. Unless the council decides otherwise, for statutory or home rule charter cities, the elected or appointed city clerk is the “responsible authority” by default. If a home rule charter does not provide for a city clerk, the “responsible authority” is the chief clerical officer for filing and record keeping purposes.

The “responsible authority” is responsible for the collection, use, and dissemination of any governmental data as well as other obligations of administering the MGDPA, including preparing a public document containing procedures that the official will use to administer the MGDPA. The “responsible authority” must appoint or also act as a “compliance official.” The “compliance official” responds to questions or concerns from persons who are attempting to access data or enforce their rights. The MGDPA is one of the most complex laws that a city has to comply with. Accordingly, all elected officials should consult with the city’s responsible authority before releasing any city data.

Cities may request advisory opinions from the commissioner of the Department of Administration on any question concerning public access to government data, rights of subjects of data, or classification of data. Advisory opinions are not binding, but a court or other tribunal must give deference to the opinion in a proceeding that involves the data in dispute. Cities that take action in conformance with the opinion will not be liable for compensatory or exemplary damages, awards of attorney fees, or penalties. Cities interested in requesting an opinion can contact the Department of Administration, Information Policy Analysis Division. The Department of Administration maintains an index to advisory opinions on its website. The Department of Administration’s Data Practices Offices is also responsible for providing free informal advice to members of the public and members of government who have questions about data practices.

It’s important to remember, there are significant administrative remedies and civil penalties for willfully releasing private and confidential data and for willfully refusing to release public data, including attorney’s fees. In addition, a city that violates any provision of the MGDPA is liable for any damage as a result of the violation. The person damaged may bring an action against the city to cover any damages, plus costs and reasonable attorney fees.

[Minn. R. 1205.0400, subp. 2.](#)
[Minn. R. 1205.0600, subp. 2.](#)
 See Chapter 4, Section I-B-1.

[Minn. Stat. § 13.601, subd. 2.](#)
 DPO 97-002 (Jan. 15, 1997)
 and DPO 97-014 (Apr. 1, 1997).

[Minn. Stat. § 13.393.](#)

[Minn. Stat. § 13D.05.](#)

Mayors may wonder what right of access they themselves have to data that isn't public. Whether a mayor, council member, or staff, the law says that access is limited to individuals "whose work assignments reasonably require access." Whether the mayor falls into that legal description is a question for each city to decide with the help of the city attorney because it likely depends on the specific situation. For this reason, mayors shouldn't be surprised if they don't get a key to the city offices just because the mayor of another city does. And of course, there's always a difference between whether one can access private or confidential data and whether one should.

Since the data a person collects, creates, receives, maintains, or disseminates in the capacity of mayor is government data, a mayor must exercise caution about where that data is created, collected, etc. Government data can easily, even accidentally, be created at home that is both public and subject to a retention schedule. Also, mayors may wish to take care in what they say in their official capacity within e-mails and even text messages.

The MGDPA states that correspondence between individuals and elected officials is private—though either party may make it public. However, correspondence between elected officials and city employees is public unless it contains information specifically classified as non-public. This even applies to the city administrator's status reports to the city council. The attorney-client privilege, however, would apply to documents created for the purpose of giving legal advice, such as a letter between the city attorney and a city official.

The Open Meeting Law doesn't allow the closing of a meeting solely to discuss private data (except in limited circumstances clearly listed in the statute), and provides that private data may be discussed openly at any public meeting without fear of liability or penalty as long as the release of the data is reasonably necessary to conduct the business the data relates to. If private data needs to be discussed at a public meeting, it is recommended that the city try to protect the information by assigning numbers, letters, or similar designations to it, and that those designations be used instead of the actual data.

Discussing private data in a closed meeting does not change the fact that it is private. Therefore, even though an open meeting might have just occurred in which private data was discussed, that data shouldn't be discussed with family, friends, or the media as if it is now public information.

While in most cases private data may be discussed in an open meeting without fear of liability, mayors should remember the seven situations mentioned in the previous section in which the Open Meeting Law requires a meeting to be closed.

C. Contracts

All cities contract for services and equipment, and laws govern many of those contracts. The most important contracting law to be familiar with is the uniform municipal contracting law.

Minn. Stat. § 471.345.

If a city plans to enter an agreement with any party for the sale, purchase, or rental of supplies, materials, or equipment, or the construction, alteration, repair, or maintenance of any city property, there is a process cities must follow depending upon the estimated dollar amount of the contract. This is true regardless of the source of funds, the size of the city, and whether a statutory or charter city.

Minn. Stat. § 471.345, subd. 2.

Minn. Stat. § 471.345, subd. 3.

If the amount of the contract is estimated to exceed \$175,000, sealed bids must be solicited by public notice. Generally, the council must award the contract to the lowest responsible bidder. If a contract for supplies, materials, or equipment is estimated to exceed \$25,000, the city must consider the availability, price, and quality available through the state's cooperative purchasing venture (CPV) program. If the CPV is not used, cities may purchase the supplies, materials, or equipment from certain national municipal associations' purchasing alliances or cooperatives.

Minn. Stat. § 471.345, subd. 15(a).

State CPV program.

Minn. Stat. § 471.345, subd. 3a.

Minn. Stat. § 471.345, subd. 15(b).

If the contract to exceed \$175,000 is for construction, alteration, repair, or maintenance work, and the city has received requisite "training," the contract may be awarded to the vendor or contractor offering the best value under a request for proposals described in statute.

Minn. Stat. § 471.345, subd. 3a.

Minn. Stat. § 471.345, subds. 4, 4a.

If a contract subject to the law is estimated to exceed \$25,000, but not \$175,000, the contract may be made either upon sealed bids or by direct negotiation. If by direct negotiation, the city obtains two or more quotations when possible, and without advertising for bids or otherwise going through competitive bidding. The best value provision applies to these contracts as well, and, again, the CPV must be considered.

Minn. Stat. § 471.345, subd. 5.

If the amount of the contract is estimated to be \$25,000 or less, the contract may be made either upon quotation or in the open market, whichever council prefers. If the contract is made upon quotation it must be based, so far as practicable, on at least two quotations, which must be kept on file for at least one year after their receipt. Best value is again an option for certain contracts.

None of these provisions apply to professional service contracts, and there are many other exceptions out of the scope of this handbook. Mayors should simply remember these laws as a basic starting point as well as the fact that only a majority of council may approve a contract on behalf of the city.

D. Budgeting

All cities must budget, and there are many technical requirements pertaining to city budgets. Cities have limited revenue streams coupled with annually growing expenditures. Cities have reporting requirements, publishing requirements, expenditure restrictions, funding obligations to fulfill, and often a requirement that citizens be allowed to participate in the budgeting process. And once again, council should rely on staff to help meet these requirements. But for the policy makers, budgeting is a critical annual exercise.

One thing the mayor was elected to do is to think about the city's goals and how to advance them. At budgeting time every year, the mayor can help focus council's discussion with the following sorts of questions:

- What does the city need and what are its goals?
- What can realistically be done about those goals and needs this year?
- What are the costs of the various options?
- How much does the city have and how will the city use its resources to fund the goals identified?

Having goals is always the city's starting point. From there, with a mayor's leadership, a city council can work with what funds it has, choose what it will fund, determine how much it will need, and thereby optimally manage citizen expectations and tax dollars.

E. Land use

Land use encompasses many legal areas, which are not easily described concisely, but it amounts to enormous power for cities. The Municipal Planning Act gives cities the authority to regulate how land is used. It is only through uniform procedures set by these statutes that the city council decides where residences are allowed, approves proposed developments, and determines every regulation of land use that best serves a city's own "comprehensive plan." Equally important to passing land use ordinances as a legislative body is the council's responsibility to apply those ordinances—much like a court—when a certain use of land is proposed to council.

Most areas of land use law are uniform to all cities and dictated by state law. One area of land use that may differ from city to city is its regulation of public nuisances. When a use of land interferes with the enjoyment of those nearby, it may be a public nuisance. If it is, ideally council has enacted a nuisance ordinance to address such situations through removal, otherwise called abatement.

[Minn. Stat. §§ 462.351 to 462.365.](#)

Minnesota law contains the procedures for zoning, subdivisions of land, and hearing requirements related to land use. It provides for a planning commission, an advisory group dedicated to helping council make land use decisions. It provides how cities may allow for uses of land upon certain conditions, and when approvals by the city must be recorded with the county.

As mayor, it's critical to be aware that a city has tremendous power to regulate land use, and that power itself is regulated by state law. The decisions the city makes must follow a dictated process and cannot occur without the authority and approval of a majority of council. Often individuals and organizations come to the mayor—as apparent head of the city—and propose a land use project. While the mayor may be an excellent first contact for requests to the city, whether a sophisticated development company or the lone resident looking for help, the party might need to be reminded that formal approval requires the consideration of the full council, if not a planning commission first. A mayor may understandably be eager to encourage developers with personal commitments to see a project approved, but this is something to avoid.

F. City as employer

As much law as there is governing land use, there are innumerable laws to know at the state, federal, and even local levels when it comes to employment. If the city violates employment laws or applicable union contracts, it can be held accountable, it exposes the city to liability. In short, there are many things to get wrong when it comes to employment.

Some employment laws where mistakes are commonly made are in the area of non-discrimination protections, laws affecting preference requirements for veterans, and leave laws such as the Family Medical Leave Act and the Minnesota Parenting Leave Act. Also of concern are employee benefits laws providing continuation of coverage rights and labor relations laws for cities with unionized employees. The League of Minnesota Cities has Human Resources Reference Manual with detailed information on these topics and more.

The most basic distinction mayors should know is the difference between having a city manager and having a city administrator or clerk. In the former, a city manager hires and fires the rest of the staff, and council hires and fires the city manager. In the latter, it is the council that hires and fires all staff. In either case, there are laws governing wages, leave, overtime, age requirements, unions, policies, and termination—to name a few areas. Ironically, the council must rely on staff as well as others to help the city be a legally compliant employer. This is one reason developing a healthy working relationship with the staff is critical.

[MN Department of Labor and Industry.](#)

[Federal Department of Labor.](#)

[HR Reference Manual.](#)

[Handbook, City Administrative Staff.](#)

See Chapter 4.

Mayors have no extraordinary authority when it comes to employment. Employment matters are likely to come up at council meetings, and the presiding member is wise to know when the meeting must or can be closed, and when it cannot. However, the mayor has no independent authority to hire or fire city staff, and decisions to do so must be the will of council.

Chapter 3: Meeting management

Meetings of city council are where the business of the city is conducted and vital decisions for the city's future are made. Meetings are often also the principal place where citizens interact with their governing body and form an impression about their city. As a result, meeting management is one of the most important components of a mayor's duties.

I. Role of the mayor in managing meetings

Minn. Stat. § 412.191, subd. 1.

The mayor of a statutory city is a member of the council and has the same right to vote and make and second motions at meetings as the other council members. Charter cities may have a different role for the mayor specified in their charter.

In addition to participating in meetings, mayors have two additional roles to play. They preside over the meeting to facilitate discussion and they preserve order.

A. Role of presiding officer

Minn. Stat. § 412.191, subd. 2.
Minn. Stat. § 412.121.

The mayor is the presiding officer of the meeting. In the absence of the mayor, the acting mayor must perform the duties of the mayor. The acting mayor is sometimes also called the mayor pro-tem and is usually appointed by the council.

The authority of the presiding officer may vary slightly from city to city, depending on the council's bylaw or policies. Typically, however, the presiding officer at a meeting is the person vested with the authority to:

- Call a meeting to order and propose adjournment.
- Recognize and call upon speakers.
- Call for debate and vote on motions.

See Section II – *Bylaws and rules of order*. See Appendix A: Minnesota Mayors Association City Council Bylaws.

See Appendix A: Minnesota Mayors Association City Council Bylaws.

See Appendix D: Minnesota Mayors Association Sample Rules of Order for City Councils.

[Minn. Stat. § 412.191, subd. 2.](#)

See Appendix A: Minnesota Mayors Association City Council Bylaws.

See Section III-A and IV-D.

- Clarify or request clarifications of motions made by members.
- Rule motions out of order.
- Interpret and enforce any meeting management policies, bylaws, or rules of order.
- Call members to order if they disregard rules of procedure or decorum for the meeting.

As the presiding officer, the mayor has a great deal of control and influence over how a meeting progresses—for example, who is heard, and not heard, and which topics are brought forward for discussion. However, this power is often not absolute. Most rules of order provide some method for members of the council to question the presiding officer’s decisions and, on some occasions, to overrule them by a vote.

Because presiding officers have such influence over the meeting, most council bylaws or rules of order emphasize that presiding officers should strive to be fair and impartial. This often means listening more than speaking—even on contentious issues—and allowing council members with opposing viewpoints to each have an opportunity to speak. A fair and impartial presiding officer protects the rights of all members to participate in the meeting. One way of looking at this is that while the presiding officer wields the most power to direct the meeting, they are also the person most a servant to meeting rules.

1. Role in preserving order

A statutory city council is authorized to preserve order at its meetings. The mayor, as the presiding officer, is also vested with some authority to prevent disturbances.

A presiding officer’s authority may vary slightly from city to city. Typically, however, the presiding officer at a meeting is the person vested with the authority to preserve order by:

- Following the council’s approved agenda and limiting discussion to current agenda items.
- Ruling on questions of procedure and entertaining appeals to rulings.
- Calling members of the council or public to order if they are being unruly or disruptive.
- Declaring meetings recessed or adjourned if they become too unruly.
- Requesting the removal of unruly or disruptive persons from the meeting room. The mayor may request the assistance of law enforcement if unruly persons refuse to depart the meeting rooms.

[Minn. Stat. § 412.191, subd. 2.](#)

See Appendix A: Minnesota Mayors Association City Council Bylaws.

See Appendix D: Minnesota Mayors Association Sample Rules of Order for City Councils.

II. Bylaws and rules of order

A statutory city council has the power to regulate its own meeting procedures. Home rule charter cities may have similar provisions in their charters. Councils often regulate their procedures through bylaws and rules of order. Rules of order are also commonly referred to as parliamentary rules of procedure, parliamentary procedure, rules of procedure or procedural rules. Councils are not required to adopt bylaws or rules of order for meeting management, but they are highly recommended for the following reasons:

- They set common values and expectations for interactions among council members.
- They can provide structure to a meeting, promoting timeliness and efficiency.
- They can help resolve conflicts in a positive way that promotes the best interests of the city, rather than allowing conflicts to grow, potentially disrupting city operations and slowing vital council decisions.

Within or separate from bylaws, city councils often have meeting rules of order. Many cities have formally adopted or informally observe some version of Robert's Rules of Order as rules of order. There are, however, disadvantages to adopting Robert's Rules to govern procedure at council meetings. Some of the disadvantages of using Robert's Rules are:

- They were not crafted with Minnesota law in mind and sometimes diverge from legal requirements for Minnesota cities.
- They were crafted to govern large bodies of assembly (such as a parliament) and are sometimes unwieldy for smaller bodies.
- While shorter condensed versions of Robert's Rules exist, typical volumes of the rules are 200 pages or longer. This can be difficult for new members to learn. Council members who are unfamiliar with the intricacies of Robert's Rules may feel silenced by their unfamiliarity with technical points or outmaneuvered by council members who are more familiar with the rules.

For these reasons, city councils may prefer to adopt more simplified rules of order. Several other models exist, or the council can draft its own policy to fit the organization and desired level of formality. Sample simplified rules of order (complete with a 2-page cheat sheet!) are in the appendices of this handbook.

It's very important to adopt written rules of order before there is a problem that rules of order could solve. If a meeting becomes contentious for whatever reason, it may be impossible to get back on track if there isn't already agreement on how the meeting should proceed.

Whatever policy the council adopts, it should follow it. Although the council can vote to change or suspend its rules, it is probably better to stick with the adopted rules except on rare occasions.

III. Meeting decorum

Meeting decorum may be an aspect of the city council's bylaws or it may be a separate set of expectations and rules that may or may not be formally adopted in written form. Decorum is more easily enforced, however, when expectations are written.

A. Typical decorum requirements

Typical rules of decorum require council members to:

- Refrain from private conversation while in the council chamber that interrupts the proceedings of the council.
- Refrain from the use of offensive words, threats of violence, or other objectionable language in or against the council or against any member.
- Limit speech to subject of current debate.
- Abide by time limits for speaking.

More modern policies on decorum may also emphasize:

- Refraining from the use of cell phones or other personal electronic devices during meetings. In addition to being a decorum problem, this may also create problems under the Open Meeting Law.
- Allowing the use of cameras, video, and other recording devices, but requiring them to be used in an unobtrusive manner that does not disrupt or delay the meeting.

Rules of decorum are often also established to govern the conduct of the public when participating in meetings.

B. Enforcing decorum among council members

Council meetings on important community issues may become contentious very quickly. Establishing rules of decorum before a controversy arises can prevent meetings from becoming unproductive due to conflict. On occasion, members of the council may not follow the rules. On these occasions, the mayor's role as the meeting's presiding officer is particularly important.

Bylaws may vary from city to city. Generally, when council members violate rules of order and decorum, the presiding officer is authorized to:

See Appendix A: Minnesota Mayors Association City Council Bylaws.

See Appendix A: Minnesota Mayors Association City Council Bylaws.

- Not recognize a breaching council member's request to speak, limiting the member's role in debate until decorum is observed.
- Declare the council member's actions out of order.
- Order removal from the council chambers by law enforcement until the council member agrees to abide by council rules of decorum.

In addition, if provided in the council's policy, generally any council member (including the mayor), may make a motion to censure a council member for conduct that breaches decorum. A censure often takes the form of a resolution adopted by council vote noting the council member's conduct and expressing disapproval of such conduct.

IV. Citizen input and audience participation in council meetings

Audience members do not have a statutory right to take an active part in the council's discussion at a meeting. Only the council can make motions and vote at a council meeting. Audience members may not speak unless they have been recognized by the presiding officer.

A. Forums for public comment

Many city councils schedule a portion of each council meeting for public comment. These are often referred to as "open forums." During this part of the meeting, the presiding officer will recognize members of the audience to speak briefly on topics that concern them. These forums are different from formal public hearings required by law on specific issues.

It is a good idea to have a policy in place related to city responses to citizen input at meetings. Often it is helpful to have a policy to not respond immediately or to take direct action in response to citizen requests. Instead, the city should adopt a policy referring most citizen comments or requests to city staff for further research and a written report back to council. This allows the city the opportunity to gather all the facts and make a measured and fair response.

While many councils recognize the value of citizen input, citizen comment can negatively affect meeting efficiency if not managed. For example, if a large number of audience members wish to speak, the meeting may not progress efficiently. Likewise, if one person spends a long time expressing their view, others may not get the opportunity to present their views. The following sections discuss ways to address some of these problems.

See Appendix A: Minnesota Mayors Association City Council Bylaws and

Appendix C, Summary Rules for Public Comment.

See Section IV-C.

1. Limiting time

Some councils have addressed this problem by placing a limit on the amount of time audience members are allowed to speak at a meeting. For example, the council may ask people to limit their remarks to no more than three minutes or allow only a specified amount of time for the whole comment period. Time limits should be adopted in a policy, applied equally and neutrally to all members of the public, and practiced consistently at every meeting.

2. Limiting topic

Another option may be to limit the scope of comments to those matters being addressed by the council at the specific meeting. While this may be a way to focus the meeting on the matters being addressed by the council, it might also keep people from making the council aware of any new issues. Cities considering this approach may want to consider other ways for people to bring up other topics. Limits on topic should also be adopted in a policy and applied equally and neutrally to all members of the public.

3. Advance written notice

As a third alternative, cities may choose to adopt policies that require advance notice of a person's desire to address council. The notice usually must be submitted in writing a few days before the actual meeting. The specific topic and the speaker's name are then put on the agenda. Such procedures are helpful in allowing the council to plan an efficient meeting. It also helps to remind the speaker that they may only address those issues listed on the notice.

B. Meeting disruptions and unruly citizens

Minn. Stat. § 412.191, subd. 2.

A statutory city council is authorized to preserve order at its meetings. The mayor, as the presiding officer, is also vested with some authority to prevent disturbances. Home rule charter cities may have similar provisions in their charters.

While council meetings must be open to the public, no one has the right to disrupt the council proceedings. When the council decides that a disorderly person should not remain in the meeting hall, the police may be called to execute the orders of the presiding officer or the council.

If the audience becomes so disorderly that it is impossible to carry on a meeting, the mayor has the right and duty to declare the council meeting temporarily recessed or adjourned to some other time (and place, if necessary). The members of the council can also move for adjournment.

See Appendix A: Minnesota Mayors Association City Council Bylaws and Appendix C: Summary Rules for Public Comment.

If the mayor is not conducting the meeting in an orderly fashion, there is relatively little the other council members can do to control the action of the presiding officer. However, a majority of the council can force adjournment whenever the council members feel it is necessary. If the city council anticipates meeting disruptions or unruly citizens to occur at an upcoming meeting, the city should connect with their city attorney.

C. Public hearings

A public hearing is a special type of city council meeting (or a portion of a meeting) designed to solicit public input and allow members of the public to express their opinions on a designated topic. Conducting a public hearing can pose different challenges to a mayor than conducting a regular council meeting. Cities may find it helpful to adopt rules of procedure specifically for conducting public hearings and managing citizen comment.

There are two types of hearings: those that are discretionary, and those that are required by a specific statute, ordinance, or charter provision.

1. Discretionary public hearings

Many city councils will hold public hearings even when not legally required to do so. Generally, hearings of this type are for the purpose of allowing the public to comment on a specific issue of interest to the community. Such hearings can be helpful in raising concerns about an issue that the council may not have considered.

2. Required public hearings

On some matters, state statute requires that the council hold a public hearing before acting.

The following are common matters that require public hearings:

- Adoption or amendment of a zoning ordinance.
- Subdivision applications.
- Granting of a conditional use permit.
- Vacation of any street, alley, public grounds, public way, or any part thereof.
- Annexation by ordinance.
- Public improvements that will be specially assessed.

See Minn. Stat. § 462.357, subd. 3. Minn. Stat. § 429.031 subd. 1(a). Minn. Stat. § 429.061 subd. 1.

Minn. Stat. § 462.357, subd. 3.

Minn. Stat. § 462.358, subd. 3b.

Minn. Stat. § 462.3595, subd. 2.

Minn. Stat. § 412.851.

Minn. Stat. § 414.033, subd. 2b.

Minn. Stat. § 429.031.

There are numerous other instances where a public hearing is required by state statute. When a public hearing is a legal requirement, it is important that the specific statute imposing the hearing be read and all conditions related to notice of the hearing be followed carefully. Often there are special notice requirements that are more substantial than the notice that is needed for a simple special meeting. For example, hearings mandated for zoning ordinance amendments have special notice requirements that may obligate the city to mail individual notices to nearby landowners. While a mayor should be generally aware of these requirements, usually city staff will keep abreast of them and work with council to ensure compliance.

3. Conducting public hearings

The focus of a public hearing is different from a regular council meeting. A public hearing is a meeting where members of the public can express their opinions. The mayor presides at the meeting in order to regulate the hearing and make sure that people who want to speak on the issue get the opportunity. The council does not deliberate or discuss matters during the public hearing portion of this type of meeting; instead, it listens to the public. Once the public comment period is finished, the council will often wrap up the meeting or move to the next agenda item.

In order to recess or continue a meeting of this sort, the council should not formally end the public comment part of the hearing. If the city would like to continue a public hearing, there would need to be a motion to continue the public hearing to a specific time, date, and place.

V. Building an adequate record

Council meetings, including any special public hearings, are where city decisions are made, and city business is conducted. Because city business affects citizens in vital and sometimes personal ways, such as the approval or denial of a land use permit, cities are required to keep an adequate record of their proceedings. In addition, an adequate record can be a vital tool in defending the city's decisions should a lawsuit result.

A. Legal requirements for meeting records

Municipal officers must keep all records necessary to provide a full and accurate knowledge of their official activities. Keeping adequate records involves preserving through a records retention policy the documents that are considered by the council. These include such documents as bills, contracts, and correspondence. Another vital component of keeping adequate records involves taking meeting minutes.

[Minn. Stat. § 15.17.](#)

Minn. Stat. § 15.17.
 Minn. Stat. § 138.225.
 Minn. Stat. §§ 138.161-.21.

To get a copy of the General Records Retention Schedule, see “Records Retention Data” at www.mcfoa.org or contact the [Research Department](#) of the League of Minnesota Cities (651-281-1220 or 1-800-925 1122).

Minn. Stat. § 412.151, subd. 1.
Whalen v. Minneapolis Special Sch. Dist. No. 1, 309 Minn. 292, 245 N.W.2d 440 (Minn. 1976).

Minn. Stat. § 13D.01, subd. 4.
 Minn. Stat. § 331A.01, subd. 6.
 Minn. Stat. § 15.17, subd. 1.

Minn. Stat. § 412.151, subd. 1.
 Minn. Stat. § 412.191, subd. 3.
 Minn. Stat. § 331A.01, subd. 6.

Minn. Stat. § 331A.01, subd. 6.
 Minn. Stat. § 412.151, subd. 1.
 Minn. Stat. § 412.191, subd. 3.
 Minn. Stat. 13D.01, Subd. 4.

Minn. Stat. § 331A.01, subd. 6.
 Minn. Stat. § 412.151, subd. 1.

Minn. Stat. § 331A.01, subd. 6.
 Minn. Stat. § 412.191, subd. 3.

Minn. Stat. § 13D.01, subd. 4.
 Minn. Stat. § 331A.01, subd. 6.
 Minn. Stat. § 412.151, subd. 1.
 Minn. Stat. § 412.191, subd. 3.

Swanson v. City of Bloomington, 421 N.W.2d 307 (Minn. 1988).

Dietz v. Dodge County, 487 N.W.2d 237 (Minn. 1992).

1. Records retention

Records that public officers are required to keep, and those that are necessary and appropriate to the proper discharge of the duties of an office, are government records. It is a crime to destroy such records without statutory authority.

The state has adopted a general schedule for the retention and destruction of a variety of city records. This is commonly known as the “Records Retention Schedule.” Cities that have adopted the general schedule have continuing authority to destroy listed records after keeping them for the prescribed time. A city must not destroy any government records that are not on the schedule without specific authorization from the State Records Disposition Panel.

2. Meeting minutes

A statutory city clerk must keep a minute book of all city council meetings. Generally, the clerk has wide discretion as to how to keep the minutes. A verbatim record of everything that was said is not normally required. However, the law does require that the following be included in the minutes:

- The members of the public body who are present.
- The members who make or second motions.
- Roll call vote on motions.
- Subject matter of proposed resolutions or ordinances.
- Whether the resolutions or ordinances are defeated or adopted.
- The votes of each member, including the mayor.

Home rule charter cities may have additional requirements in the charter.

Although not generally required by statute, several court decisions suggest that including certain information in the minutes can help to defend a city’s actions should a lawsuit occur. The following types of data are examples of information that should be included in the minutes:

See LMC memo *Taking the Mystery out of Findings of Fact*.

Minn. Stat. § 412.151, subd. 1.

- Findings of fact. Case law requires them for land use decisions and some personnel decisions.
- The council’s conclusions. Case law requires them for land use decisions and some personnel decisions.
- The specific reasons behind the council’s conclusions. Examples would include such things as the economic, social, political, or safety factors that were considered when the council made a particular decision.
- Signature of clerk and mayor. Because minutes would likely be considered official papers of the city, they should be signed by the clerk. And although the law does not require it, in many cities the mayor also signs the minutes after they are approved by the council.

3. Adequate records and defending city decisions

City councils make two types of decisions—legislative decisions and quasi-judicial decisions. A typical legislative decision a council makes is to adopt an ordinance. Legislative decisions are made when the city exercises its general lawmaking authority in a broad manner that applies city-wide.

In contrast, quasi-judicial decisions involve applying standards found in an ordinance or policy to individuals. A typical quasi-judicial decision a council makes is to grant or deny a landowner’s request for a zoning conditional use permit. Quasi-judicial decisions are made when the city exercises its authority over individuals to grant or deny their specific applications for privileges under existing city ordinance.

Both legislative and quasi-judicial decisions of the council may result in lawsuits against the city. When a reviewing court examines a city’s decisions, it applies different standards of review to legislative decisions and quasi-judicial decisions.

a. Court review of legislative decisions

When reviewing a city’s legislative actions, the court looks to see whether the actions were constitutional, rational, and in some way related to protecting the health, safety, and welfare of the public. This is known as the “rational basis standard,” and it is a standard that is generally not difficult for cities to meet. The court may not always agree with a city council’s decisions, but it will not substitute its judgment for that of the city council—if the council can establish through an adequate record that its actions met the rational basis standard.

Swanson v. City of Bloomington, 421 N.W.2d 307 (Minn. 1988).

Northwestern College v. City of Arden Hills, 281 N.W.2d 865 (Minn. 1979).

b. Court review of quasi-judicial decisions

In quasi-judicial situations, a reviewing court will more closely scrutinize the city's decision to determine whether they city has provided a legally and factually sufficient basis for its decision in an adequate record. This is especially true in the area of land use regulation such as zoning and subdivision.

In quasi-judicial situations, due process and equal protection are the main reasons for the more stringent scrutiny. Due process and equal protection under the law demand that similar applicants must be treated uniformly by the city. A reviewing court will overrule a quasi-judicial city decision if it determines that the decision was arbitrary (failed to treat equally situated applicants equally or failed to follow ordinance requirements).

Swanson v. City of Bloomington, 421 N.W.2d 307 (Minn. 1988).

c. Role of records in building the city's case

The public record is being increasingly reviewed by the courts to determine whether the city's action involved a reasonable means to a legal end. The law provides that cities have considerable discretion in developing plans, setting standards, and deciding applications. The public record, as a whole, must demonstrate that the city acted reasonably in enforcing its plans, standards, and regulations. It does not matter that the city acted reasonably if it is unable to prove its actions through the public record.

In reviewing the public record, courts look primarily to a city council's findings of fact. A city council must apply the facts to the law and find reasons upon which to base its decision. The reasons or rationale are referred to as findings of fact and need to be an adequate factual basis in the public record to support the council's decision. Inadequate findings may result in a reversal of the council's decision.

B. Mayor's role in building an adequate record

As the presiding officer at city meetings, the mayor can be essential to ensuring that an adequate record protects the city's decisions from being overruled by a court. Key ways to build a complete record include:

- Following rules of procedure that require formal motions for all council actions.
- Restating motions clearly for the minute taker prior to opening debate and voting.
- Announcing the vote clearly on city motions.

- Requesting that complex motions and all resolutions, findings of fact, and conclusions of law be reduced to written form.
- Allowing adequate time for public comment and participation at public hearings.

The mayor is not alone, of course, in working to build an adequate record. However, as presiding officer, the mayor can certainly provide necessary leadership to ensure that this important work for the city is accomplished.

Chapter 4: Mayoral Leadership

Mayors have the responsibility to exert leadership in city affairs. Because the mayors of statutory cities lack significant individual authority, this responsibility frequently calls for consensus building and tact rather than overt acts of direction or supervisory control.

Leadership plays an essential role in successful city governance. However, pinpointing the characteristics of a successful leader is no simple task. One thing is certain—no one trait alone creates a leader. Instead successful leadership depends upon a blend of several characteristics that can be pulled from the mayor’s “tool kit” when needed.

In addition, mayoral leadership not only depends upon having the right tools in the tool kit, but also upon knowing when to use them. For example, no leader is successful simply because they are decisive alone, or thoughtful and measured all the time. Rather leaders are successful, because they are decisive when needed and thoughtful and measured at the right moment in time.

I. Key traits of successful mayors

While there are many differences in mayors, there are many common traits in their approach to governing that seem to strongly influence their success as leaders. These traits include the following:

- Successful mayors have an attitude of humility. All mayors can be justifiably proud that they have been elected—it is a significant accomplishment and a reflection of the trust that others have they will be ethical and competent representatives. However, truly successful mayors are also humble; they realize they are no smarter than before their election, there is much to learn, and much is expected of them.
- Successful mayors reject an attitude of entitlement. Effective mayors expect to give more than they receive. They recognize their position is not one of entitlement, but rather one of responsibility to their constituents, council colleagues, and staff and—equally important—to the office they hold and will eventually pass on to others.

- Successful mayors are willing to learn. To have an open mind means to appreciate the value that comes from having one's opinions and ideas challenged. Successful mayoral leaders listen, respect diverse opinions, and realize the correct decisions might be different than they initially believed.
- Successful mayors recognize the difference between being responsive and responsible. Often the mayor is the most visible representative of city government in the community. As a result, mayors may spend a great deal of their time simply listening to the concerns of their constituents—who are often also their neighbors, friends, coworkers, and customers. However, it is important to recognize that the public's interest is often different than a particular constituent's desires and needs. Successful mayors know that while it is sometimes appropriate to respond to the needs of individual constituents, in other instances they must act for the betterment of the whole community, even when some residents may not like it. It is essential to evaluate each decision against both principles and having the courage to act appropriately.
- Successful mayors value partnership and teamwork. Effective governments are no more than effective teams. When the mayor, city council members, and staff view each other as resources and partners, they are more likely to be able to meet their community's needs, no matter how difficult. However, when the city's elected officials look for scapegoats and blame staff or each other it chills innovation and risk taking, leads to low morale and turnover, and ultimately to failure. Both elected and appointed officials must be held accountable even though mistakes will occur. Effective mayors spend their energy on learning from mistakes and how to avoid them in the future, and not on finding someone to blame.
- Successful mayors gather their facts before making decisions. Some issues that arise do require immediate action, even when all the facts or opinions have not been collected. However, successful mayors recognize that these rare situations are the exception rather than the rule. Mayors and city councils may at times feel enormous pressure from constituents to act immediately in response to a crisis or new event. Taking the time to plan a thoughtful, concerted response may not always be a popular decision. Nevertheless, it is important to recognize that, even in a crisis, better decisions invariably result when there is opportunity and effort to gather crucial information and thoroughly discuss alternatives.

II. Inspirational leadership

While mayors of statutory cities lack significant individual legal authority, their role as an inspirational leader of the city cannot be underestimated.

Mayors can provide important leadership by promoting citizen involvement in government, championing long-term planning for the city's future, and promoting new programs and initiatives.

A. Promoting citizen involvement

Many observers of local government strongly correlate the level of engagement between citizens and their government with the overall success and vitality of a community.

1. The value of citizen involvement

Increasingly, public officials are learning that one of the most effective ways to address challenging community issues is through citizen and stakeholder dialogue. When issues are discussed in citizen and stakeholder groups, people can more easily balance individual needs with the common good. Group interaction promotes civic skills—such as talking, debate, persuasion, negotiation, creativity, and compromise. When citizens with different viewpoints talk to each other to develop policy recommendations that serve the common good of the community, the participants:

- Learn more about the issues.
- Connect their personal experiences to the policy debate.
- Develop more detailed plans and policy recommendations.
- Are more likely to devote their own time and energy to implementing the action ideas they've recommended.
- Forge effective working relationships with others, including city elected officials and staff.

2. The mayor's role and citizen involvement

One of the easiest ways mayors can promote citizen involvement is by modeling compliance with the Minnesota Open Meeting Law—both the letter of the law and its intent—and other laws aimed at soliciting public input. For example, most changes to a city zoning ordinance will require a public hearing for citizen input. Modeling compliance and respect for the law builds trust in government, which in turn inspires greater citizen confidence, communication, and involvement.

Other ways mayors can inspire citizen participation in government include:

- Be an advocate for your city’s story. Mayors are often characterized as the ceremonial head of the city. As a result, they are often in the best position to communicate news about the city and city programs. Mayors often communicate the good word through communications with traditional media (such as the local newspaper and local cable television shows), through discussions at council meetings, in city hall forums, in city newsletters, and on city websites.
- Be honest with constituents. Effective mayors can separate what is desirable from what is possible and communicate this to constituents. It is important to communicate the dilemmas the city faces and real limits (budgetary or otherwise) that may hinder a much-wanted city project such as a new ball field or hockey rink. Honest communications prevent unrealistic expectations on the part of city constituents and encourage them to engage the problem as an active participant alongside the city.
- Model respect and civility. The mayor is in a unique position as the presiding officer at city council meetings to model meeting decorum, civility, and respect. The mayor should conduct meetings in a manner that encourages open discussion of issues and honest differences of opinion, without the use of personal attacks, name calling or scapegoating. For both council members and citizen participants in city meetings, the mayor can demonstrate that city hall is a safe place to voice one’s point of view.
- Share information freely. The mayor can set the tone for city communications with citizens by communicating in a language that citizens can easily understand. Avoid acronyms and language that only insiders can interpret. Encourage your city council to consider placing public information such as the city code, meeting minutes, council packets, and committee information on the city’s website. An informed and educated citizenry is an effective citizenry.
- Engage citizens as citizens. Cities often focus on providing courteous, prompt, and efficient customer service to their citizens. Employing concepts of customer service is a valuable tool in some instances. However, city residents are more than just customers of the city—they’re citizens. Treat them like citizens. The mayor can serve an inspirational role in challenging citizens to think about their own obligations to build and maintain the community. Mayors can advocate for city councils to use surveys to ask citizens for their input or to hold town hall meetings to talk about long-term plans for the city, projects, and priorities.

- Be an advocate for engaging youth and diverse communities with government. Engaging younger generations and diverse communities can be a difficult challenge. Mayors can advocate for inclusion by making efforts to meet with constituents in places where they are comfortable—such as coffee shops, community centers, places of worship, and athletic events—rather than city hall. Mayors can promote interaction with school age citizens and encourage city councils to institute youth commissions and advisory boards. Finally, mayors can be advocates for using the Internet and technology to reach new citizen groups.

B. Long-term planning

The day-to-day demands of local government can be challenging. However, while working on the problems of the immediate present, it is vital to remember the promise of the future. Many cities use long-term planning to guide daily decisions and to ensure that their communities stay on track with longer-term goals.

1. The value of long-term planning

Planning provides an opportunity for policymakers to consider the future impacts of today's decisions. Planning can take many forms, both formal and informal. Some planning may be mandated such as comprehensive land use planning for many cities in the metro area. Some formal planning that the city may be most familiar with include:

- Financial planning. A budget is a yearly plan for how the city will allocate its resources. In addition to budgeting, many cities have long-term financial plans for managing their cash flow, reserves, and investments.
- Capital planning. A capital plan sets priorities for city improvements and infrastructure such as a new city hall, recreational and community facilities, streets, and water and sewer facilities. A capital plan identifies the useful life of existing facilities, plans for their replacement or upgrading, and anticipates the need for new facilities in areas of growth.
- Land use planning. A land use plan anticipates and regulates future development of land within the city, establishing areas for growth or revitalization, and setting aside areas for preservation.

The formal plans discussed above help cities tackle specific concrete issues and challenges. Cities may also engage in broader planning or visioning process for their future. Cities may engage in planning processes with their citizens that ask broader questions such as: How can the city promote more inclusive democracy? How can the city create a more livable or equitable community?

Planning may address varying problems and goals. However, successful planning processes typically all have common beneficial secondary effects. Planning can also:

[Minn. Stat. § 473.175.](#)

- Promote a shared understanding of important and complex issues and potentially a shared consensus for tackling difficult issues.
- Highlight alternative strategies for meeting big challenges.
- Create an understanding of the relationships between issues and strategies for meeting challenges.

2. The mayor's role in long-term planning

Certainly, mayors in statutory cities do not have the authority to initiate or engage in long-term planning on their own initiative. However, as an inspirational leader, mayors can advocate the importance of long-term planning for a community—particularly when short-term considerations seem overwhelming.

One of the most concrete ways that mayors can promote long-term planning is in their role as presiding officer at city council meetings. Mayors can suggest that debate consider the long-term implications of city actions or that city decisions be evaluated for their consistency with long term plans already in place.

C. New programs and initiatives

A mayor's initiative project or program is a common way to create or revitalize interest in city services. Mayors in statutory cities must, of course, work closely with their city councils to gain approval for and financing of any new programs. However, it is important to stress that a mayor's initiative need not be a costly or expensive campaign. An inexpensive mayor's initiative may center on promoting use of community parks and recreational opportunities or encouraging volunteerism. The mayor's role as ceremonial head of the city can often be harnessed to generate interest in valuable community projects.

III. Ethical leadership

Ethical leadership on the part of the mayor is vital to the functioning of the city and to maintaining the public's trust and confidence in both the city and the democratic process. In their duties as ceremonial leader of the city and as presiding officer at city meetings, mayors can play a significant role in promoting ethical government.

A. Key traits of ethical leaders

While most people agree that it is desirable to be an ethical person, deciding what is "ethical" in a given situation may be more difficult. Some common traits of ethical public officials are:

- Ethical mayors recognize that ethical questions may be complex. As a result, they are willing to seek out and accept the advice of knowledgeable officials such as the city attorney or senior city staff.
- Ethical mayors recognize that ethical conflicts are inevitable and should be dealt with quickly. Elected officials are human and citizens of their communities. On occasion, it is to be expected that they will have needs or roles in their private lives that conflict with the obligations of public office. Ethical officials are open about potential conflicts of interest and follow applicable rules for disclosing and dealing with the conflict (such as refraining from voting on a particular issue) to avoid even the appearance of impropriety.
- Ethical mayors are driven by fairness. The most ethical mayors recognize that many city decisions will have adverse as well as positive outcomes and they, therefore, strive to make the best decision as defined by its ultimate fairness to all concerned. This often means making impartial decisions on the merits of the issues alone, while disregarding personal allegiances. It can also mean considering interests of citizens who are not present or who have not otherwise commented, but who are nonetheless affected by a decision. Ethical officials try to make decisions in the best interest of all in the community, not just those who show up at a meeting or protest the loudest.
- Ethical mayors recognize the importance of conscientious and ethical government as a value in itself. Ethical mayors do not use their office or authority for revenge, prestige, or personal gain. Ethical mayors recognize that government is a human institution. The human motivations of those in government will determine if the government itself is effective or ineffective, good or bad, ethical or unethical. Ethical mayors care enough to make a positive difference and then act accordingly.

B. Ethics laws and official conflict of interest

State law includes extensive regulation on the ethical behavior of city officials and criminalizes violations of the law. State law regulates—among other things—conflict of interest, incompatible offices, and gifts to elected officials.

1. Official conflict of interest in contracts

Generally state law prohibits public officers from having a personal financial interest in a sale, lease, or contract they are authorized to make in their official capacity. A “public officer” certainly includes a mayor, a council member, or an elected official.

[Minn. Stat. § 471.87.](#)

Minn. Stat. § 471.88, subd. 1.
*1989 Street Improvement
 Program v. Denmark
 Township*, 483 N.W.2d 508
 (Minn. App. 1992).

An interested officer should disclose their interest at the earliest stage and abstain from voting or deliberating on any contract in which they have an interest. There are some exceptions to the general prohibition on contracting with city officials defined in state law. When the exceptions are used, generally the contract must be approved by unanimous vote of the council.

There are detailed procedures that must be followed to use any exception to the conflict of interest law. State statute and the city attorney should be consulted on the procedures to follow.

a. Statutory cities

Statutory cities must consider an additional law. The law provides that no member of a statutory city council may be directly or indirectly interested in any contract the council makes, except for the limited exceptions discussed previously. This law may apply to some situations where the general law does not. For example, even though the actual contract is not made with a council member, the fact that they have an indirect interest in it could violate this law.

b. Home rule charter cities

Many home rule charters contain provisions on conflict of interest in contracts. Some of these go beyond the statute to include any city official, even though the official has no part in making the contract. These charter provisions may apply to situations where the statute does not. However, the exceptions discussed previously apply to all cities, despite any other statute or city charter. (Because charter provisions vary from city to city, they are not covered in this document).

Some home rule charters contain provisions preventing all officers and employees from being interested in a contract with the city. Such a provision evidently applies to every city officer or employee whether or not they have a part in making contracts.

2. Conflicts of interest in non-contract situations

Conflicts in non-contractual situations, such as the approval of a license held by a council member or the determination of qualifications for office, may also arise. While conflicts in contractual situations are closely regulated by state law, unfortunately, there is little statutory guidance related to non-contractual conflicts. Guidance in these situations comes through Minnesota attorney general opinions and court decisions. This adds a layer of complexity to dealing with conflicts in non-contractual situations.

56 Am. Jur. 2d Municipal Corporations § 142. *Lenz v. Coon Creek Watershed Dist.*, 278 Minn. 1, 153 N.W.2d 209 (1967). *Township Bd. of Lake Valley Township v. Lewis*, 305 Minn. 488, 234 N.W.2d 815 (1975).

State v. Sword, 157 Minn. 263, 196 N.W. 467 (1923). *Kenney v. Goergen*, 36 Minn. 190, 31 N.W. 210 (1886).

Minn. Stat. § 471.895.

Minn. Stat. § 471.895, subd. 3.

Minn. Stat. § 15.054.

Generally, any official who has personal financial interest in an official non-contractual action is disqualified from participating in the action. This is especially true when the matter concerns the member's character, conduct, or right to hold office. Another situation may be when the official's own personal interest is so distinct from the public interest that the member cannot be expected to represent the public interest fairly in deciding the matter.

Dealing with conflicts in non-contractual situations requires the advice and guidance of the city attorney.

3. Incompatible offices

Generally, all individuals in elected office are prohibited from holding incompatible offices. The question of whether a city official can also serve the city in some other capacity is quite complicated. One must look at both the statutory law and the common law that has been developed through Minnesota court decisions. The city attorney should be consulted on concerns about elected officials holding two separate offices.

4. Gifts to elected officials

Elected and appointed "local officials" may not receive a gift from any "interested person." An "interested person" is a person, or representative of a person or an association, who has a direct financial interest in a decision that a local official is authorized to make. This law applies to all cities in Minnesota.

There are a few exceptions to the gift law. Some commonly encountered exceptions include lawful campaign contributions and food, or beverages given at a reception, meal, or meeting the official has been invited to attend.

5. Other laws on ethical behavior

Various other state laws regulate the ethical behavior of elected officials. A non-exhaustive list of these laws includes:

- Sale of government-owned property. In general, officers and employees of the state or its subdivisions are prohibited from selling government-owned property to another officer or employee of the state or its subdivisions. However, the law does not apply to the sale of items acquired or produced for sale to the general public in the ordinary course of business. In addition, the law allows government employees and officers to sell public property if the sale is in the normal course of their duties.

Minn. Stat. § 471.895. Minn. Stat. § 10A.071. Minn. Stat. § 10A.01, subd. 21, 24.

Minn. Stat. § 10A.07.

Minn. Stat. § 10A.01, subd. 22.
Minn. Stat. § 10A.09, subds. 1, 6a.

- Gifts from lobbyists for officials in metropolitan cities with populations over 50,000. Metropolitan cities with a population over 50,000 are subject to an additional law related to gifts. Local officials in these cities are also prohibited from receiving gifts from “lobbyists.” A “lobbyist” is defined as someone engaged in lobbying in the private or public sector, or a city employee or non-elected city official who spends more than 50 hours in any month attempting to influence governmental action.
- Conflict of interest and economic disclosure in metropolitan cities with populations over 50,000. Elected and appointed officials of metropolitan cities with populations over 50,000 must disclose certain information if they will be involved in a decision that will affect their financial interests. The law affects elected or appointed city officials, or city employees with authority to make, recommend, or vote on major decisions regarding the expenditure or investment of public funds. The law applies if the official or employee must make a decision or take an action that substantially affects their financial interests or those of a business with which they are associated. However, there is an exception if the effect is no greater for the interested business than for others in that business, occupation, or position.
- Statements of economic interest. City officials in cities within the seven-county metropolitan area with populations over 50,000 (as determined by the most recent federal census, a special U.S. census, an estimate by the Met Council, or the state demographer) must file a statement of economic interest. The statement must be filed with the local official’s governing body and the Minnesota Public Disclosure Board.

6. City values statements and ethics policies

Ethical expectations can be difficult to convey. In addition, the conflict of interest laws are scattered throughout many statutes and court cases, making them difficult to find and hard to interpret. As a result, some cities have developed and adopted their own policies on ethics and conflicts of interest. Policies must be consistent with state law. Generally, these policies can take two forms: a values statement expressing core principles for ethical conduct, or a formal code of conduct. Cities may adopt a values statement or a code of conduct or both. However, it is important to note that state law does not require formal adoption of a city ethics policy.

a. Values statements

Values statements are written to reflect the core ethical values of the city. They are a way to compare preferred values against actual behaviors. Values statements may take many forms, but generally they contain four to six cardinal values surrounded by “I” statements and examples.

See Appendix F: Sample Statement of Values.

See Appendix G: Sample Code of Conduct.

For example, “I serve the public interest when I recognize and support the public’s right to know the public’s business.” Values-based codes generally set aspirational “do’s,” while codes of conduct stress “don’ts,” as discussed below.

b. Codes of conduct

Codes of conduct are written more like bylaws or regulations for an organization. Generally, they prescribe explicit standards of behavior and provide for formal complaints, hearings, and censure. For example, a code of conduct might state, “No member may knowingly violate the Open Meeting Law.”

c. Enforceability

i. Values statements

Because of the aspirational and sometimes subjective nature of values-based codes, formal enforcement might be difficult and likely counterproductive. Compliance is better left to the individual’s conscience.

ii. Codes of conduct

Charter cities may provide for recall of elected public officials in their charter. However, recall of public officials is not possible in statutory cities. In addition, there is no authority in state statute to provide for removal of a council member by vote of the council or through application of a city-based ethics policy. There is also no authority to levy fines for violations.

As a result, city codes of conduct for elected officials are generally enforced through censure. Censure is a formal resolution of council stating that a council member has violated the city’s ethical rules and expressing disapproval of their actions.

[Minn. Stat. § 410.20.](#)

IV. Mayor-council relationship

Because the mayors of statutory cities lack significant individual authority, the key to a successful mayor-council relationship often lies in recognizing the mayor’s role (and its limits) and working from there to build productive partnerships with fellow council members.

A. Meetings and the mayor-council relationship

Because of the Minnesota Open Meeting Law, most interaction between mayor and council will occur in public during an open meeting where the mayor is the presiding officer. As a result, meeting management and meeting decorum are key to developing a successful mayor-council relationship. Some keys to success in this area include:

See Chapter 3.

See Appendix A: Minnesota Mayors Association Sample City Council Bylaws.

- Presiding officers should not dominate discussion. In most cities, the mayor participates equally in council meetings. Generally, the mayor has the same right as any other council member to discuss issues, make and second motions, and vote. Since the mayor is also a presiding officer at meetings, this can create a difficult situation on issues where the mayor may have strong views. In recognition of their dual role as participant and meeting facilitator, mayors may choose to limit their comments or save their comments until all other members have had a chance to voice their views. However, this is not a legal requirement, just common practice. If the mayor has particularly strong views on an issue, some city policies on meeting management allow the mayor to step aside as presiding officer and for the appointment of a temporary presiding officer.
- Presiding officers should allow all participants to speak and present their views. The role of the presiding officer is to facilitate the discussion. Most city policies on meeting management prohibit speaking out of turn and require the presiding officer to recognize a council member prior to speaking. The reason for this requirement is to prevent the inevitable disorder and confusion of many voices speaking at once. It also greatly simplifies the work of the minute taker and allows an accurate record to be created. Mayors should not use this authority to silence political opponents or suppress views with which the mayor does not agree.
- Presiding officers should know and enforce applicable city policies on meeting management and/or rules of procedure. Successful meetings require leadership to keep participants on task. Most city policies on meeting management specify expected conduct for meetings that is essential to an organized meeting. For example, time limits on comments by participants, procedures for being recognized by the presiding officer before speaking, limits on public participation, formal language for making and amending motions, and procedures for voting. If the presiding officer is not familiar with or does not enforce the city policies or rules, often there is little recourse for other meeting participants to enforce the rules themselves. This may create frustration, delay, or unduly extend meetings, lead to confusion over actions taken, and potentially create embarrassment for the council as a whole.
- Presiding officers should model and enforce decorum. The mayor is in a unique position, as the presiding officer at city council meetings, to model meeting decorum, civility, and respect. The mayor should conduct meetings in a manner that encourages open discussion of issues and honest differences of opinion, without the use of personal attacks, name calling or scapegoating. Civility and decorum, perhaps more than any other factor—both inside meetings and outside – is the key to building successful relationships with council.

B. Keys to team-building success

Many observers of government have linked city success with the ability of the mayor and council to work together as a team. Both inside meetings and during one-to-one interactions, mayors can promote a team model of government by:

- Sharing information freely. Mayors sometimes play a unique role for the city in meeting with citizens, business representatives, and other governmental officials and dignitaries. In addition, mayors may have unique duties as meeting leaders, agenda setters, emergency managers, and public spokespersons, depending on each city's policies. As a result, mayors often obtain vital information related to the city's operations before other council members and even city staff. Timely sharing of information equally with all stakeholders and in an inclusive manner is a key to successful team building. It is important to stress, however, that information should only be shared in a manner that complies with all legal requirements such as the Minnesota Open Meeting Law.
- Communicating honestly. On occasion, bad news is both the hardest news to convey and the most vital. Not everything in your city will be a total success. While there may be a temptation to resolve a short-term dilemma by providing only partial information to fellow council members, this approach can have long-term and long-lasting negative effects. Failing to communicate honestly erodes trust and may damage the city council's ability to make collaborative decisions.
- Working collaboratively to establish visions, goals, and priorities. When priorities and policies are set collaboratively, they often have greater stakeholder buy-in. Knowing that their position was at least considered often goes a long way in satisfying council members whose positions ultimately do not prevail.

V. Mayor-staff relations

Not all cities are alike. Depending on the city's form of government, staffing structures will vary. It is important for a mayor to understand the city's form of government and its corresponding staff structure.

A. City staff and their roles

City staff positions and roles are created by a combination of state statute, local ordinance, and city policy. In addition, some charter cities may have provisions in their charter creating and defining staff roles.

See Chapter 2.

1. City manager and city administrator

The terms “city manager” and “city administrator” are sometimes used interchangeably, but they are two legally distinct concepts. City managers can only exist in Plan B cities or home rule charter cities that provide for the council-manager form of government. No form of government requires an administrator position. It is most common, however, to see an administrator in a Plan A city. City managers and city administrators have very differently defined roles.

A. City administrator

The position of city administrator is usually created by ordinance or resolution. Sometimes the administrator position exists in addition to a separate city clerk position, but in smaller cities the duties are often merged into a combined clerk-administrator position.

Since state statutes do not specifically provide for a city administrator, or define the powers of the position, duties can vary greatly from city to city. The extent of the city administrator’s powers may be defined locally by a combination of ordinance, city policy, and job descriptions. In smaller cities, the responsibilities may essentially be an expansion of the city clerk’s duties. Other cities, typically larger cities, may give the administrator broader powers so that they essentially functions as a city manager with duties as discussed below.

b. City manager

The Plan B form of government is also known as the council-manager plan. It consists of the elected mayor, four or six elected council members, and an appointed city manager. There are 16 Plan B cities in Minnesota. Several home rule charter cities have also adopted the council-manager plan through their charters. An election must be held to become a Plan B city.

In Plan B cities, the council retains legislative and policy-making authority, but most administrative responsibilities, such as hiring and firing, are delegated to the city manager. The council’s control over these matters is indirect, essentially through its selection and retention of a manager.

Unlike the position of city administrator, the duties of a city manager are clearly defined by state statute for Plan B cities. Charter cities should consult their charter for a listing of the manager’s duties. In Plan B cities, state law establishes the city manager as the head of the administrative branch of government, and the person who is responsible to the council for the proper administration of all city affairs. As a result, city managers are vested with the power to appoint and remove city staff.

[Minn. Stat. § 412.611.](#)

This includes the city clerk, all department heads, and subordinate officers and employees. Neither the council nor any individual council member may dictate the appointment of any person to office or employment by the manager.

Council members may not interfere with the manager's judgment in appointing personnel. Likewise, the council may not give orders to any subordinate of the manager. Instead, the council's control is indirect, through its selection and appointment of the manager.

City managers also have defined, and expansive powers related to budgeting, finances, and enforcement of city ordinances.

2. City clerk

All cities in Minnesota have the position of a city clerk. The clerk may be the city's only administrative official or may be supervised by a city administrator or city manager (in cities that have those positions). Minnesota cities have one of three types of city clerks: elected, appointed, or home rule charter clerks. Appointed clerks are the most common type of clerk. The duties of both elected and appointed clerks are defined by state statute. Further, the council may develop other ministerial duties specific to the city's needs. Charter cities should consult their charter for a listing of the clerk's duties.

A non-exhaustive list of the duties of clerks in statutory cities includes:

- Post and publish such notices, ordinances, and resolutions as may be required, including notices of meetings required by the Minnesota Open Meeting Law.
- Keep a minute book containing all city council proceedings, and an ordinance book recording all of the ordinances passed by the council.
- Act as a bookkeeper of the city and keep an account book to enter all money transactions of the city, including the dates and amounts of all receipts, the person from whom the money was received as well as all orders drawn upon the treasurer with their payee and object.
- Administer all city elections.

B. Job direction and supervision

In statutory cities and most charter cities, mayors have no authority to directly supervise city staff or provide direction to city staff. Likewise, there is no authority for the mayor, acting as an individual, to appoint or terminate staff, to investigate or discipline employees, or to access employee data. The authority to supervise staff is delegated to the council as a whole, not to any one individual on council. Charter cities may provide some authority for direct supervision.

Minn. Stat. § 412.151, subd. 1.

See Chapter 2–IV–F.

In Plan B statutory cities and most council-manager charter cities, the city manager has all administrative authority over city employees. City councils as a whole may indirectly supervise staff through their ability to hire and fire the city manager and to set city policy.

In statutory, non-Plan B cities, the city council as a whole supervises employees by:

- Providing direct instruction to staff at a city council meeting. For example, making and approving a motion to “direct the city clerk to research grant opportunities for equipment in the city parks” or “direct the city clerk to work with the mayor to develop a job description for a utility billing secretary.”
- Adopting policies that govern staff behavior. For example, the city’s employee handbook may instruct staff to wear uniforms, punch in on a time clock, or follow explicit purchasing procedures. The city council may also establish policies on promotions, wage increases, benefits, etc.
- Establishing job descriptions listing staff duties. For example, the city clerk’s job description may require the clerk to supervise a deputy clerk, or a police sergeant’s job description may require the sergeant to act at a school liaison officer.
- Entering into employment contracts with specific conditions for employment. For example, a city administrator’s contract may set provisions for severance or performance goals, or a union contract may set criteria for benefit increases.
- Conducting employment reviews. In some cities, the city council directly conducts employment reviews for all staff, or merely for high level staff such as the city administrator. In the alternative, council may delegate this function to city staff such as the city administrator, or to an employee review committee.
- Conducting or authorizing investigations into employee conduct. For example, the city council may hold a closed meeting to discuss alleged conduct with a city employee. In the alternative, the city council may authorize the city administrator, attorney, or an outside investigator to investigate a specific issue and report back to council at a later date.
- Hiring and terminating employment. For example, the city council may make the decision to lay off classes of employees or terminate employment for misconduct.

Elwood v. Rice County, 423 N.W.2d 671 (Minn. 1988).
Rico v. State, 472 N.W.2d 100 (Minn. 1991). *In re Alexandria Accident of Feb. 8, 1994*, 561 N.W.2d 543 (Minn. Ct. App. 1997) (snowplow driver). *Kari v. City of Maplewood*, 582 N.W.2d 921 (Minn. 1998) (emergency vehicle). *Kelly v. City of Minneapolis*, 598 N.W.2d 657 (Minn. Ct. App. 1999) (police officer).
 Minn. Stat. § 466.07.

Minn. Stat. § 13.43, subd. 1.
 Minn. Rule 1205.0400.

League of Minnesota Cities
Handbook for Minnesota Cities.

League of Minnesota Cities *HR Reference Manual*.

To join the mayor's listserv, contact mhagenau@lmc.org

Attempts to directly supervise or direct employees, without city council consent or direction, may create unintended legal liability for a mayor. Generally, the doctrine of official immunity protects public officials from lawsuits based upon discretionary actions taken in the course of their official duties. Additionally, state statute requires cities to defend and indemnify council members for any suit arising from their official duties. However, these doctrines may not protect a mayor if they are found to be acting outside the scope of their duties. In addition, it is important to note that neither official immunity nor the statute applies when a mayor or council member acts with malice or in bad faith.

Aside from legal liability, attempting to directly supervise staff may also have the effect of creating confusion for staff, who may receive conflicting direction from multiple sources. This confusion may delay important city actions, create unnecessary expense, or itself be a source of legal liability.

1. Access to employee records

Most employee data is defined as private data that is not accessible to the general public. As a result, access to employee files is limited to individuals whose job duties reasonably require access to private data. Since the mayor or individual council members do not have individual authority over city personnel, they cannot generally access this private information on their own initiative. However, the council could authorize the mayor or an individual council member to view the data for job-related reasons. For example, if the mayor is assigned to an employee review team.

VI. Conclusion

The Minnesota Mayors Handbook is a starting point for all you need to learn to be a successful mayor. The handbook is designed to highlight key areas of knowledge without being an exhaustive guide. Some sections pinpoint potential legal pitfalls for mayors or advise caution on common areas of liability. The purpose of this guide is to give you just enough information in these critical areas to help you recognize these situations and to know where to turn for more resources and assistance.

As you seek to increase your knowledge base, remember the Minnesota Mayors Association. Your fellow mayors can be among your most important resources! The Mayors Association offers a continuing education conference each spring and maintains a listserv for mayors on the League of Minnesota Cities website. In addition, never hesitate to ask city staff—these experienced professionals can be another critical asset. Finally, the League of Minnesota Cities has in-depth materials available on all the topics (and more) discussed in this handbook.

Finally, this handbook concludes with sample documents that have been referenced throughout the chapters. These are:

- The Minnesota Mayors Association Sample City Council Bylaws, Agenda Request Form, and Summary Rules of Public Comment (Appendices A – C).
- The Minnesota Mayors Association Sample Rules of Order with a Summary of Motions, Council Handouts outlining simple principles for making meetings work and problem-solving hints, and (Appendices D and E).
- A sample Code of Conduct and Statement of Values (Appendices E and F) created by the League of Minnesota Cities Ethics Advisory Panel.

Many city councils find that adopting formal bylaws and rules of order is the key to a successful working relationship between mayor and council. In addition, the sample rules of order contain tips for running successful meetings.

Minnesota Mayors Association

Appendix A: City Council Bylaws

- I. **AUTHORITY.** City councils are authorized to adopt rules of procedure and provide for order at their meetings pursuant to Minn. Stat. § 412.191.
- II. **PURPOSE.** The purpose of this policy on city council meetings is to set the groundwork for orderly and respectful communications between and among council members, city staff, and citizens to promote the efficient working of the public's business at city council meetings.
- III. **THE OPEN MEETING LAW.** The Minnesota Open Meeting Law, Minn. Stat. ch. 13D, generally requires that all meetings of public bodies be open to the public.
 - A. This presumption of openness serves three basic purposes:
 1. To prohibit actions from being taken at a secret meeting, where it is impossible for the interested public to become fully informed concerning decisions of public bodies, or to detect improper influences.
 2. To ensure the public's right to be informed.
 3. To afford the public an opportunity to present its views to the public body.
 - B. The city council views providing and encouraging citizen access to city meetings as one of its most important duties. As a result, all council and council committee meetings, including special and adjourned meetings, with the exception of closed meetings, as provided by Minn. Stat. ch. 13D, shall be open to the public.
 - C. In calculating the number of days for providing notice under the Minnesota Open Meeting Law, the first day that the notice is given is not counted, but the last day is counted. If the last day is a Saturday, Sunday, or legal holiday, that day is omitted from the calculation and the following day is considered the last day (unless, it happens to be a Saturday, Sunday, or legal holiday).
 - D. In keeping with the intent of the Minnesota Open Meeting Law, city council members shall not use any form of electronic communications technology, such as text messaging or e-mail, to communicate with one another or third parties during a public meeting in a manner that is hidden or shielded from the public view.
 - E. Pursuant to Minn. Stat. § 13D.01, subd. 6, at least one copy of the written materials made available to council at or before the meeting shall also be made available for inspection by the public, excluding any non-public data, attorney-client privileged data, or materials related to agenda items of closed meetings.
- IV. **QUORUM.** A simple majority (_____) of the council shall constitute a quorum for the valid transaction of any scheduled business to come before the council.

V. **COUNCIL MEETINGS.**

- A. **Location.** All meetings, including special, recessed, and continued meetings, shall be held in the city council chambers, unless otherwise designated, pursuant to Minn. Stat. § 13D.04, subd. 2.
- B. **Regular meetings.** A schedule of regular meetings shall be kept on file with the city clerk.
- C. **Special meetings.** A special meeting is a meeting that is held at a time or location different from that of a regular meeting. A special meeting may be called by the mayor or any two city council members by filing a request for the meeting at least three days before the meeting. Days shall be counted as provided in III-C. Notice to the public of special meetings must be given pursuant to Minn. Stat. § 13D.04, subd. 2.
- D. **Emergency meetings.** An emergency meeting may be called by the mayor or any two city council members. An emergency meeting is a special meeting called because of circumstances that, in the judgment of the public body, require immediate consideration by the public body. Posted or published notice of an emergency meeting is not required. However, the city will make a good faith effort to notify each news outlet that has filed a written request for notice. Notice must be given by telephone or any other method to notify members of the public body. The notice must include the subject of the meeting.
- E. **Closed meetings.** The Minnesota Open Meeting Law allows some meetings to be closed to the public for defined purposes. When a meeting is closed, the presiding officer at the council meeting will state the reason for closing the meeting on the record and cite the state statute that permits closure.
- F. **Recessed or continued meetings.** When a meeting is recessed or continued, the presiding officer shall state the time and place for the next meeting to occur pursuant to Minn. Stat. § 13D.04, subd 4. The time and place shall be noted in the minutes. If the time and place is stated and noted in the minutes, no additional notice of the meeting is required. However, if the time and place is not stated, the notice procedures for special meeting shall be required.
- G. **Organizational meetings.** The council will conduct its organizational meeting concurrent with the first regular council meeting in January of each year to:
 1. Appoint an acting mayor pursuant to Minn. Stat. § 412.121.
 2. Select an official newspaper pursuant to Minn. Stat. § 412.831.
 3. Select an official depository for city funds. This must be done within 30 days of the start of the city's fiscal year pursuant to Minn. Stat. §§ 427.01-.02; 118A.02, subd 1; 427.09.
 4. Review council's bylaws and make any needed changes.
 5. Assign committee duties to members.
 6. Approve official bonds that have been filed with the clerk.

- VI. PRESIDING OFFICER.** The mayor shall preside at all meetings of the city council.
- A. ***Role of the presiding officer.*** The presiding officer shall preserve order, enforce the City Council Rules of Order as adopted in VII, and determine, without debate, all questions of procedure and order, subject to the final decision of the council on appeal as provided in VI-D. The presiding officer shall determine which member has the right to speak and may move matters to a vote once the officer has determined that all members have spoken. The presiding officer may determine whether a motion or proposed amendment is in order and may call members to order.
 - B. ***Adjourning meetings.*** If considered necessary, because of grave disorder, the presiding officer may adjourn or continue the meeting to another time or suspend the meeting for a specified time.
 - C. ***Designation of a sergeant-at-arms.*** The presiding officer may request that local law enforcement designate a member to serve as a sergeant-at-arms at city council meetings. The sergeant-at-arms shall carry out all orders or instructions given by the presiding officer for the purpose of maintaining order and decorum at meetings.
 - D. ***Motions and voting.*** The presiding officer may make motions, second motions, speak on any questions, and vote on any matter properly before the council.
 - E. ***Absences of the presiding officer.*** In the absence of the mayor, the acting mayor shall preside. In the absence of both the mayor and the acting mayor, the city clerk/administrator shall call the meeting to order. The first order of business shall be to select a presiding officer for the meeting from the members present. The city clerk/administrator shall preside until the council members present choose a member to act as presiding officer.
 - F. ***Appeals of rulings of the presiding officer.*** Any member of the council may appeal to the full council a ruling on order or procedure made by the presiding officer.
 - 1. ***Procedure for appeals.*** An appeal is made by motion. No second is need for the motion. The member making the motion may speak once solely on the question involved, and the presiding officer may speak once solely to explain his or her ruling, but no other council member may participate in the discussion.
 - 2. Once both the maker of the motion and the presiding officer have spoken, the matter must be voted upon by the council as a whole.
 - 3. The appeal shall be sustained if it is approved by a majority of the members present, exclusive of the presiding officer.
 - G. ***Temporary designation of a presiding officer.*** The presiding officer may choose to designate a temporary presiding officer before participating in debate on a given matter. In the alternative, the council may by majority vote designate a temporary presiding officer to preside over the debate on a given matter. The presiding officer shall resume presiding as soon as action on the matter is concluded.
- VII. RULES OF ORDER.** The proceedings of the city council shall be conducted in accordance with the Minnesota Mayors Association Rules of Order for City Councils.

VIII. *DECORUM OF COUNCIL MEMBERS.*

- A. *Aspirational statement:* All council members shall assist the presiding officer in preserving order and decorum and in providing for the efficient operation of the meeting.
- B. *Aspirational statement:* No council member shall engage in conduct which delays or interrupts the proceedings, or which hinders honest, respectful discussion and debate.
- C. *Aspirational statement:* City council meetings shall be conducted in a courteous manner that recognizes the validity of differing points of view and promotes the ideal of democratic discussion and debate free of insult, slander, and personal attacks and threats.
- D. To effectuate these aspirational goals, city council members shall conduct themselves at council meetings in a manner consistent with the following:
 - 1. No council member shall engage in private conversation or pass private messages while in the chamber in a manner so as to interrupt the proceedings of the council.
 - 2. No council member shall leave his or her seat or make any noise of disturbance while a vote is being taken and until the result of the vote is announced.
 - 3. No council member shall use profane or obscene words or use language that threatens harm or violence toward another person during a council meeting.
 - 4. No council member shall speak on any subject other than the subject in debate.
 - 5. No council member shall speak without being recognized by the chair; nor shall any council member interrupt the speech of another council member.
 - 6. No council member shall disobey the City Council Rules of Order adopted in VII or a decision of the presiding officer on questions of order or practice or upon the interpretation of the rules of council.
 - 7. No council member shall engage in disorderly conduct that disturbs or disrupts the orderly conduct of any meeting.

IX. *VOTING.*

- A. The votes of the city council will be taken by voice vote. The presiding officer shall announce the results of all votes of the council.
- B. A clear statement of the matter being voted upon and the names of those voting for and against the matter shall be recorded in the official minutes.
- C. Council members may ask for a roll call of the vote by the clerk/administrator on any motion or resolution.
- D. The clerk/administrator may ask for a verification roll call if the vote of a council member is not clear on the voice vote.
- E. A majority vote of the quorum present shall be sufficient for all matters before the council, unless otherwise provided by state law.
- F. Whenever a matter is put forward for a vote, every council member shall vote, unless a bona fide conflict of interest, as defined by state law, exists.

X. MEETING SCHEDULE.

- A. Each meeting of the council shall convene at the time and place appointed. All public hearings shall commence at the advertised time.
- B. Council business shall be conducted in the order of the prepared agenda, unless an alteration is approved by a majority of the council. The prepared agenda may also be altered by the presiding officer to accommodate the advertised time of a public hearing.
- C. The last item on the agenda will be commenced no later than _____ p.m.
- D. If all business has not been completed, the meeting may be continued to another date and time following the notice provisions in V-F.

XI. ORDER OF BUSINESS. The order of business for all council meetings shall be:

- A. Call to order.
- B. Call of roll.
- C. Approval of minutes.
- D. Public forum and correspondence.
- E. Consent agenda.
- F. Public hearings (when scheduled).
- G. Acknowledgement of receipt of board/commission minutes (if any).
- H. Board/commission/committee reports (if any).
- I. Staff reports (if any).
- J. New business.
- K. Unfinished business.
- L. Consideration of bills.
- M. Adjournment.

XII. AGENDA. An agenda will be prepared for all regular council meetings by the city clerk/administrator. Agenda items may be placed by city council members and city staff. Members of the public wishing to place items on the agenda shall be directed to the public comment forum provided at the council meeting. When a special meeting is called, the agenda must be included in the request for the meeting and in the publication of the notice of the meeting pursuant to Minn. Stat. § 13D.04, subd. 2.

- A. All requests to place an item on the agenda must be received by the city clerk/administrator by _____ a.m. _____ days prior to the next council meeting.
- B. All requests to place an item on the agenda must be on the form prescribed by the city. The form should be completed with the goal of clearly describing the subject matter to be considered by council and any action requested or required. Supporting information may be attached to the form as necessary.
- C. All requests to place an item on the agenda by city staff must be reviewed by the city administrator/clerk.
- D. The agenda, along with information materials, will be mailed or delivered to all city council members and the city attorney at least _____ days prior to the next council meeting.

XIII. CONSENT AGENDA. A consent agenda may be used to improve the efficiency of meetings. The consent agenda allows council to consider several items at one time. Only one motion is necessary to approve all items on the consent agenda.

- A. Items that require findings of fact or an explanation of council actions, such as land use matters and the consideration of license requests, should generally not be placed on the consent agenda.
- B. An item on the consent agenda may be removed from consideration by the request of any one council member. Items removed from the consent agenda will be placed on the regular agenda for discussion and consideration.

XIV. MINUTES. Minutes constitute a vital record of the city and are the best means of preserving city council intent, findings of fact, and action. Pursuant to Minn. Stat. § 412.151, the city clerk must keep a minute book.

- A. The minutes shall contain at minimum:
 - 1. The city council members who are present.
 - 2. Type of meeting (regular, special, continued, emergency).
 - 3. Date and place the meeting was held.
 - 4. Time the meeting was called to order.
 - 5. Approval of minutes of the previous meeting, with any corrections.
 - 6. The members who make or second motions.
 - 7. Roll call vote on motions.
 - 8. Subject matter of proposed resolutions or ordinances.
 - 9. Whether the resolutions or ordinances are defeated or adopted.
 - 10. The votes of each member, including the mayor.
 - 11. A statement of findings of facts and an explanation of council action, including specific reasons for approval and disapproval, on all land use and licensing matters.
 - 12. Listing of all bills allowed or approved for payment, noting the recipient, purpose, and amount.
 - 13. Approval of hourly rates paid for services provided, mileage rates, meal-reimbursement amounts, and per diem amounts.
 - 14. List of all transfers of funds.

15. Authorizations and directions to invest excess funds, and information on investment redemptions and maturities.
 16. Approval of minutes of the previous meeting, with any corrections.
 17. Identity of parties to whom contracts were awarded.
 18. Abstentions from voting due to a conflict, and the member's name and reason for abstention.
 19. Appointments of representatives to committees or outside organizations.
 20. Name and brief summary of subject matter of citizens appearing before council during public comment period.
- B. The minutes of each meeting shall be typed and signed by the clerk/administrator. Copies of the minutes shall be included in the agenda for the next council meeting.
- C. At the next regular meeting, approval of the previous meeting's minutes shall be considered by council.
1. The meeting minutes do not need to be read aloud.
 2. The presiding officer shall call for any additions or corrections.
 3. If there is no objection to an addition or correction, it will be made without a vote of the council.
 4. If there is an objection, the council shall vote upon the addition or correction by roll call vote.
 5. Council shall take formal action by vote to approve the minutes as distributed or as amended.
- D. Minutes shall be published as required by Minn. Stat. §§ 412.191, 331A.08, subd. 3, 331A.01, subd 10.

XV. PUBLIC COMMENT AT COUNCIL MEETINGS AND AT PUBLIC HEARINGS

- A. ***Public participation and comment at council meetings.*** City council meetings are the forum for the city council to conduct the city's business. While city council meetings are open to the public pursuant to the Minnesota Open Meeting Law, they are not a forum for public expression. As such, members of the public are not allowed to participate in council discussion and debate without a specific invitation and/or formal recognition by the presiding officer. Members of the public shall not applaud, engage in conversation, or engage in other behavior through words or action that may disrupt the proceedings of council.
- B. ***Members of the public shall follow the direction of the presiding officer.*** Members of the public who do not follow the direction of the presiding officer will be warned that further disruptive conduct will result in removal from the meeting. After warning, if the conduct continues, the presiding officer may ask the member of the public to leave the meeting room.

If the member of the public refuses to follow the direction of the presiding officer, the presiding officer may direct the sergeant-at-arms to remove the person through any lawful means. In emergency situations, or where conduct is an egregious threat to the safety of the public or the council, a warning is not necessary before the sergeant-at-arms is directed to remove the person.

C. **Public comment period.** A limited forum for members of the public to speak with the council is provided on the agenda. Public comments during the public comment period are subject to these limitations:

1. Speakers must be recognized by the presiding officer before speaking and are limited to three minutes for comment.
2. When multiple speakers appear to speak on the same topic, comments should not be repetitive. The presiding officer may request speakers to appoint a spokesperson.
3. The presiding officer may place a time limit on the public comment period if necessary to allow for the conduct of city business. If there is not sufficient time at the meeting to hear all public comments, the comment period may be deferred to the next regular council meeting or at a continued meeting.
4. Speakers must sign up prior to speaking and provide a name, address, and brief summary of the subject matter they wish to address. The sign-up sheet will be available at the start of the city council meeting.
5. Speakers must direct their remarks toward the presiding officer.
6. Speakers shall not use obscene, profane or threatening language, nor conduct themselves in a threatening, loud, or boisterous manner that disrupts the conduct of the meeting or the security of the public.
7. Speakers are required to follow the direction of the presiding officer.
8. Speakers who do not follow the direction of the presiding officer will be warned that further disruptive conduct will result in removal from the meeting. After warning, if the conduct continues the presiding officer may ask the speaker to leave. If the speaker refuses to follow the direction of the presiding officer, the presiding officer may direct the sergeant-at-arms to remove the speaker through any lawful means. In emergency situations, or when conduct is an egregious threat to the safety of the public or the council, a warning is not necessary before the sergeant-at-arms is directed to remove the speaker.
9. Council will generally not respond at the same meeting where an issue is initially raised by a member of the public. Matters raised for the first

time by members of the public will generally be referred to staff for further research and possible report or action at a future council meeting.

D. A summary of these rules for public comment may be provided in the council meeting room.

XVI. PUBLIC HEARINGS. Public hearings are sometimes required by law to allow the public to offer input on city council decisions. When public hearings are required by law, notice shall be provided as required by state statute. Public hearings shall be commenced at the time advertised in any notice required by law.

A. **General procedure for public hearings.** The order of business for all public hearings conducted by council shall be:

1. Opening comments by presiding officer announcing the purpose of the public hearing.
2. Presiding officer opens the public hearing portion of the meeting.
3. Staff presentation (including clerk/administrator, attorney, engineering reports if any).
4. Developer/other presentation (if any).
5. Public comments.
6. Reading of written comments.
7. Presiding officer formally closes the public hearing portion of the meeting.

B. Speakers who wish to address the city council at a public hearing must follow the same rules in XV. However, the presiding officer may allow additional time for speakers, as required, to comply with applicable state law.

C. Speakers may also provide written comments to the city council before or at the meeting. Written comments shall be read aloud by the presiding officer or his or her designee as provided in XVI-A-6. Anonymous, unsigned communications will not be read.

D. The presiding officer may continue the hearing, if necessary, following the procedures in V-F.

XVII. PROCEDURE FOR RESOLUTION AND ORDINANCE ADOPTION. All resolutions and ordinances shall be in writing. Unless otherwise provided by law, all ordinances shall be adopted by resolution by a majority vote of council members present at the council meeting. Unless otherwise provided by law, ordinances do not require multiple readings, and may be adopted as presented at the first available meeting.

- XVIII. BOARD, COMMISSION, AND COMMITTEE ASSIGNMENTS.** All assignments of council members to serve on city boards, commissions, and committees shall be by a majority vote of council members present at the meeting, unless otherwise provided by law.
- XIX. MAYORAL AND CITY PROCLAMATIONS.** Except as otherwise provided by law, all mayoral and city proclamations recognizing events, persons, and official observances shall be adopted by a majority of council members present at the meeting where such proclamation is presented for adoption.
- XX. SEATING ASSIGNMENTS.** Council members shall occupy the chairs assigned to them by the presiding officer, but two council members may exchange seats by joining in a formal request to the presiding officer.
- XXI. SUSPENSION OR AMENDMENT OF THESE RULES.** Any or all of these rules may be temporarily suspended by a majority vote of the council members present at the meeting, except as otherwise required by Minnesota law. These rules shall not be repealed or amended except by a majority vote of the whole council after notice has been given at a preceding council meeting.

Appendix B: Agenda Request Form

Sample for use with Minnesota Mayors Association *City Council Bylaws*

Agenda Request Form

DATE SUBMITTED:

SUBMITTED BY:

DEPARTMENT:

ISSUE:

ATTACHMENTS:

JUSTIFICATION:

FINANCIAL IMPACT:

ACTION REQUESTED:

REVIEWED BY: ☐ City Clerk/Admin. ☐ City Attorney ☐ Bldg. Insp. ☐ DNR
 ☐ Finance Director ☐ Public Works ☐ County ☐ Architect
 ☐ City Engineer

CITY CLERK/ADMINISTRATOR'S RECOMMENDATION

LANGUAGE FOR PROPOSED FORMAL MOTION TO BE CONSIDERED BY COUNCIL

Appendix C: Summary Rules for Public Comment

Sample for Use with Minnesota Mayors Association *City Council Bylaws*

City Council Members

Mayor: _____

Council: _____

City Staff:

Clerk/Administrator: _____

City Attorney: _____

Public Works Director: _____

Police Chief: _____

Fire Chief: _____

Zoning Administrator: _____

Meeting Dates & Times: _____

WELCOME to this meeting of your City Council. Please take a moment to read our guidelines for public participation in council meetings.

Agenda: An agenda packet is available for public inspection at the entrance to the meeting room. Ordinarily the council will address items as they appear on the agenda.

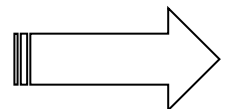
Council procedure: The council has adopted rules of procedure for all meetings. The rules are available for public inspection at the entrance to the meeting room. In order to take official action on items, the council will pass a motion by voice vote. Generally, a simple majority vote of the members present is needed to pass most motions.

Public participation in meetings: Comments from the public are restricted to the public forum period.

City Council meetings are the forum for the City Council to conduct the city's business. While City Council meetings are open to the public pursuant to the Minnesota Open Meeting Law, they are not a forum for public expression.

Members of the public are not allowed to participate in council discussion and debate without a specific invitation by the presiding officer.



Members of the public shall not applaud, engage in conversation, or engage in other behavior through words or actions that may disrupt the proceedings of council.



During the public forum period, citizens must:

- Sign up prior to speaking and provide a name, address, and brief summary of the subject matter they wish to address. The sign-up sheet is available at the meeting entrance.
- Be recognized by the presiding officer before speaking. Comments are limited to three minutes.
- Direct their remarks to the presiding officer.
- Follow the direction of the presiding officer.

During forum period, the public is prohibited from:

-  The use of obscene, profane, or threatening language.
-  Threatening, loud, or boisterous conduct that disrupts the meeting or the security of the public.

Members of the public who do not follow the direction of the presiding officer will be warned that further disruptive conduct will result in removal from the meeting. If the conduct continues, the presiding officer may ask the speaker to leave. If the speaker refuses to follow the direction of the presiding officer, the presiding officer may direct the sergeant-at-arms to remove the speaker through any lawful means.

The presiding officer may:

- Request the public to appoint a spokesperson when multiple speakers appear to speak on the same topic.
- Place a time limit on or defer the public comment period.
- Alter rules to meet legal requirements for public hearings required by law

Council agenda/order of business:

1. Call to order.
2. Call of roll.
3. Approval of minutes.
4. Public forum & correspondence.
5. Consent agenda.
6. Public hearings (when scheduled)
7. Board, commission, & committee minutes
8. Board, commission, & committee reports
9. Staff reports
10. New business
11. Unfinished business
12. Consideration of bills
13. Adjournment

Contact information for City Hall: _____

Hours of operation: _____

Minnesota Mayors Association

Appendix D: Rules of Order for City Councils

Preamble.

- a. **Purpose.** The purpose of these rules is to foster debate and discussion in an orderly manner, not to suppress honest discussion with excessive formality. Without rules, confusion and disorderly proceedings would hamper all city action, no matter how well intended. Rules allow city business to be conducted as efficiently as possible, protect minority groups by giving every person a chance to be heard, prevent discussion of multiple topics at once, and allow decisions to be made by majority rule.
- b. **Rights of council members.** All council members are equal and have the same rights to make motions; object to motions in a timely manner; participate in debate; have their votes counted; and speak, when recognized, free of interruption.
- c. **Obligations of council members.** The rights of individual council members cannot be realized unless all council members also recognize their obligations as members of the political body. Council members are obligated to receive the recognition of the chair before speaking, except as otherwise provided by these rules. No one has the right to speak at whim. Council members are obligated to speak directly on the subject being considered and observe time limits for comment. Finally, council members are obligated to address all remarks to the presiding officer, avoid personal attacks, and refrain from using any insulting or demeaning language or indecent or threatening behavior.

Rule 1. Motions.

All formal actions of council must be by motion. A council member may make only one motion at a time.

Rule 2. Language for making a motion.

The appropriate language for making a motion shall be substantially similar to, “*I move to* _____.”

Rule 3. Procedure for consideration of a motion.

A motion does not need to be seconded. Once a motion has been made, the presiding officer shall restate the motion and (if applicable) open the motion up for debate, provided that the mayor determines that the motion is in order and no objections to the motion have been made pursuant to Rule 4. A motion is in order if it is made at a proper time in the proper format and does not violate any applicable rules of law, ordinance, or city policy, including city policies on

decorum and civility, and is not made for the purpose of unduly delaying the proceedings. Debate shall follow the procedures in Rule 5. Once debate has concluded, the presiding officer shall restate the motion and call for a vote on the issue. A motion shall be considered passed if it receives a majority vote of those present at the meeting, unless otherwise required by law.

Rule 4. Objections to a motion.

- a. Any member of the council may make an objection to a motion if he or she believes the motion is not in order. A motion is in order if it is made at a proper time in the proper format and does not violate any applicable rules of law, ordinance, or city policy, including city policies on decorum and civility, and is not made for the purpose of unduly delaying the proceedings.
- b. An objection to a motion must be made immediately following the motion and at no other time. The objector does not need to be recognized by the presiding officer in order to voice their objection. The appropriate language for making an objection shall be substantially similar to, “I object to the motion as being out of order, and call for a ruling by the presiding officer.”
- c. A motion may be objected to as not being made at a proper time if the motion was made by a person not called upon by the presiding officer to speak, or if it does not follow the agreed upon agenda for the meeting.
- d. The presiding officer shall determine whether the motion is in order.
- e. In determining whether the motion is in order, the presiding officer shall let the objector to the motion speak once explaining his or her position. Next, the presiding officer shall let the maker of the motion speak once to answer the concerns of the objector. Then the presiding officer shall make a formal ruling as to whether the motion was in order.
- f. If the motion is ruled out of order, the motion shall not be considered. If the motion is ruled in order, the presiding officer shall open the motion for debate (if applicable).
- g. The presiding officer’s ruling may be appealed as provided in Rule 7.

Rule 5. Debate.

Generally, only one motion may be considered at a time in debate. Once a motion has been made, the presiding officer shall restate the motion and open the motion for debate, if the motion is debatable. The presiding officer shall conduct the debate in accordance with the following:

- a. For initial comments, all comments shall be limited to five minutes. For subsequent comments, all comments shall be limited to two minutes.
- b. The maker of the motion shall be permitted to speak first on the issue.

- c. To the extent possible, the debate shall alternate between proponents and opponents of the measure.
- d. Everyone who wishes to speak on the issue must be permitted to speak once, before council members who have already spoken are permitted to speak again.
- e. Council members shall avoid repeating points already made in the debate or other duplicative conduct that may delay the proceedings. Where a point has already been made, council members may affirm agreement or disagreement.
- f. Generally, only one motion may be considered at a time in debate. Debate may only be interrupted by a motion to amend the original motion, a motion to take a brief recess, a motion to withdraw the motion by the motion's maker, a motion to divide a complex question, a motion to defer consideration to a later date, a motion to refer an issue to committee, motion for the previous question, a motion to limit debate, or a motion for a call to order. When debate is interrupted by any of these motions, the interrupting motion shall be resolved prior to resuming debate.

Rule 6. Definitions of motions that may interrupt debate (secondary motions).

As explained in Rule 5, only certain motions may interrupt debate on a motion. These are called secondary motions. When a secondary motion is made, the presiding officer must follow the same procedures in Rule 3 to consider the secondary motion. A secondary motion must be resolved, either by being ruled out of order by the presiding officer or debated and voted upon by the council, before debate on the main motion can resume. Secondary motions may also be made outside of debate, where appropriate. For example, a motion to take a brief recess can be made before, during, or after a debate.

- a. ***Motion to amend the original motion.*** The maker of the motion does not need to consent to a motion to amend. However, he or she may vote against the amendment or withdraw their motion via a motion to withdraw prior to any amendment being approved. Only two amendments may be made to an original motion to avoid confusion. The amendments should be voted on in reverse order, with the last amendment being voted upon first. To avoid confusion, complex language should be put in writing. A motion may not be amended so substantially as to essentially reject the original motion, though different language may be proposed so as to entirely substitute for the original language.

The appropriate language for making a motion to amend shall be substantially similar to "I move to amend the motion by inserting between . . . and . . ." or "I move to amend the motion by adding after . . ." or "I move to amend the motion by striking out . . ." or "I move to amend the motion by striking out . . . and inserting . . ." or "I move to amend by striking out the motion . . . and substituting the following."

- b. **Motion to take a brief recess** is not a motion to adjourn or continue the meeting to another time or place. Instead, it is a motion to take a brief respite no greater than 20 minutes. If a motion to take a brief recess is granted, the presiding officer may set a time for the meeting to resume. In addition, the presiding officer is authorized to call for a brief recess on his or her own initiative, without a vote, to maintain order in the meeting.

The appropriate language for making a motion to recess shall be substantially similar to, "I move to take a brief recess for _____ minutes."

- c. **Motion to withdraw a motion** is not subject to debate, and it can only be made by the motion's maker before a motion is amended.

The appropriate language for making a motion to withdraw shall be substantially similar to, "I move to withdraw my motion."

- d. **Motion to divide a complex question** may be used for complex items of business. It allows the council to break larger questions into smaller parts, which are considered separately.

The appropriate language for making a motion to divide a complex question shall be substantially similar to, "I move to divide the question into _____ parts. Part 1 shall be _____. Part 2 shall be _____."

- e. **Motion to table or defer consideration to a later date** is not subject to debate. It may be used to defer or delay consideration of a matter.

The appropriate language for making a motion to defer consideration shall be substantially similar to, "I move to defer consideration of the main motion/this item until _____."

- f. **Motion to refer an issue to committee** is not subject to debate. It may be used to refer an issue to a city committee, such as the park board or planning commission, for their report. The motion should contain an expected receipt day for the report.

The appropriate language for making a motion to refer an issue shall be substantially similar to, "I move to refer the main motion/this issue to the _____ committee for its consideration and recommendation. The committee should report back to the council in _____ days/weeks."

- g. **Motion for call of the previous question** is not subject to debate. It may be used only after at least 20 minutes of debate on a single motion or when all members of the council

have been permitted to speak at least once on the motion. If approved by the majority, a vote must be taken on the motion under debate immediately.

The appropriate language for making a motion to call the previous question shall be substantially similar to, “I move to call the previous question” or “I move for an immediate vote on this issue.”

- h. **Motion to limit debate** is not subject to debate. It may be used to establish time limits for debate.

The appropriate language for making a motion to limit debate shall be substantially similar to, “I move to limit debate on this issue to ___ minutes per person” or “I move to limit council debate on this issue to no more than ___ minutes total.”

- i. **Motion for a call to order** is not subject to debate. It may be used to signal to the presiding officer that the council member feels the proceedings have gotten disorderly.

The appropriate language for making a motion for a call to order shall be substantially similar to, “I move for a call to order by the presiding officer.”

NOTE: Most secondary motions should not literally interrupt debate. They may not be made in the midst of the comments of a speaker duly recognized by the presiding officer, or silence the speaker’s speech. To make a secondary motion, the maker must be called upon and recognized by the presiding officer. There are two exceptions to this rule—a motion for a call of the previous question and a motion for a call to order. These motions may be made at any time—even in a manner that interrupts a speaker. However, these motions should be made only in the rare instance where a meeting has become out of control, strayed from the agenda, or become disorderly.

Rule 7. Appealing procedural decisions of the presiding officer.

- a. Any member of the council may appeal to the full council a ruling on order or procedure made by the presiding officer.
- b. **Procedure for appeals.** An appeal is made by motion. No second is needed for the motion. The member making the motion may speak once solely on the question involved, and the presiding officer may speak once solely to explain his or her ruling, but no other council member may participate in the discussion.
- c. Once both the maker of the motion and the presiding officer have spoken, the matter must be voted upon by the council as a whole.
- d. The appeal shall be sustained if it is approved by a majority of the members present, exclusive of the presiding officer.

Rule 8. Other special motions explained.

- a. **Motion to adjourn** is not subject to debate. It may be used to suggest a conclusion to the meeting. The presiding officer may adjourn a meeting on his or her own initiative, without a vote, if necessary to maintain order.

The appropriate language for making a motion to adjourn shall be substantially similar to, "I move to adjourn the meeting."

- b. **Motion to go into closed session** may be used to close the meeting pursuant to the Minnesota Open Meeting Law. When the motion is made, the basis for closing the meeting and the applicable law must be stated into the record. The presiding officer may also close the meeting on his or her own initiative, without a council vote, if closing the meeting is mandatory under the law or if directed by the city attorney.

The appropriate language for making a motion to go into closed session shall be substantially similar to, "I move to close the meeting in order to consider _____ pursuant to _____ of the Minnesota Open Meeting Law."

- c. **Motion to leave a closed session** may be used to conclude a closed session and return to an open meeting.

The appropriate language for making a motion to leave a closed session shall be substantially similar to, "I move to open the meeting."

- d. **Motion to revive consideration of an issue** may be used to request consideration of an issue previously tabled, deferred, or referred to committee at any prior meeting.

The appropriate language for making a motion to revive shall be substantially similar to, "I move to revive consideration of _____ previously tabled/deferred/referred to committee."

- e. **Motion to reconsider** may be made only at the **same** meeting where the issue was originally considered and voted upon. It may be made only by a person on the prevailing side of an issue. In the event of a tie vote, those voting against the issue shall be considered the prevailing side.

The appropriate language for making a motion to reconsider shall be substantially similar to, "I move to reconsider _____."

- f. **Motion to rescind or repeal** may be made at any meeting following the meeting where the issue was originally considered and voted upon. It may be made by any council member, whether or not he or she was on the prevailing side. It may not be made when

prevented by law or where substantial reliance on the council's previous decision has occurred (for example, in the area of contracts or hiring/termination of employees).

The appropriate language for making a motion to reconsider shall be substantially similar to, "I move to rescind/repeal the council's previous action related to _____ as stated in resolution number _____."

- g. **Motion to prevent reintroduction of an issue for _____ months** is not subject to debate. It may be used to limit discussion of an issue that has been raised and/or moved for reconsideration several previous times.

The appropriate language for making a motion to prevent reintroduction shall be substantially similar to, "I move to prevent reintroduction of this issue for _____ months."

- h. **Motion to suspend the rules or to consider a motion informally** should be used sparingly on issues likely to be uncontroversial. Complex motions and resolutions should still be put in writing. This motion may permit informal discussion of an issue (such as a roundtable discussion, brainstorming session, visioning session, etc.) where appropriate.

The appropriate language for making a motion to proceed informally shall be substantially similar to, "I move that we suspend the rules and proceed informally in discussing the issue of _____."

Rule 9. Resolutions and ordinances.

Simple motions shall be used only for procedural and meeting matters. Substantive issues, such as the approval or disapproval of contracts, licenses, or permits; the censure of council members; the hiring, termination, or promotion of employees; the appointment of board, commission, and committee members; and the adoption of city policies, rules, and ordinances shall be by resolution. An exception to this general rule may be made in instances where significant documentation of the council's decision exists, rendering an additional resolution repetitive (for example, where a written contract spells out all the terms that would be listed in the resolution). All resolutions shall be written and numbered in a manner consistent with the city's record keeping policies.

The appropriate language for a motion for the adoption of a resolution shall be substantially similar to, "I move to adopt the resolution numbered _____."

Rule 10. Robert's Rules not applicable.

These rules are designed specifically for Minnesota city councils. Further, these rules were drafted to be an appropriate level of regulation and formality for smaller governing bodies typically seen in Minnesota cities. Robert's Rules of Order is not assumed to apply or to supplement these regulations. Where a situation arises that is not addressed by these rules, the intent of these rules, as expressed in the preamble, should be effectuated by the presiding officer, in consultation with the city attorney.

Summary of Motions

For use with Minnesota Mayors Association *Rules of Order for City Councils*



Means a motion is not subject to debate.



Means that motion may be made during active debate on a main motion.



Means a motion can be made without recognition from the presiding officer or that it can interrupt other speakers.

1. General motion for all council action:

"I move to _____"

2. Motion to amend the original motion.

The maker of the motion does not need to consent to a motion to amend. Only two amendments may be made to an original motion to avoid confusion.



"I move to amend the motion by inserting between . . . and . . ." or *"I move to amend the motion by adding after . . ."* or *"I move to amend the motion by striking out . . ."* or *"I move to amend the motion by striking out . . . and inserting . . ."* or *"I move to amend by striking out the motion . . . and substituting the following."*

3. Motion to take a brief recess.

A motion to take a brief respite no greater than 20 minutes.



"I move to take a brief recess for _____ minutes."

4. Motion to withdraw a motion.

This can only be made by the motion's maker before a motion is amended.



"I move to withdraw my motion."

5. Motion to divide a complex question.

This allows questions to be considered in smaller parts.



"I move to divide the question into _____ parts. Part 1 shall be _____. Part 2 shall be _____."

6. Motion to table or defer consideration to a later date.

This may be used to defer consideration.



"I move to defer consideration of the main motion/this item until _____."

7. Motion to refer an issue to committee.

This may be used to refer an issue to a city committee.



"I move to refer the main motion/this issue to the _____ committee for its consideration and recommendation. The committee should report back to the council in _____ days/weeks."

8. Motion for call of the previous question.

This may only be used after at least 20 minutes of debate on a single motion or when all members of the council have been permitted to speak at least once on the motion. If approved by the majority, a vote must be taken on the motion under debate immediately.



"I move to call the previous question" or "I move for an immediate vote on this issue."

9. Motion to limit debate.

This may be used to establish time limits for debate.



"I move to limit debate on this issue to _____ minutes per person" or "I move to limit council debate on this issue to no more than _____ minutes total."



10. Motion for a call to order. This is used to signal to the presiding officer that the meeting is disorderly.

“I move for a call to order by the presiding officer.”

11. Motion to adjourn. This may be used to suggest a conclusion to the meeting.



“I move to adjourn the meeting.”

12. Motion to go into closed session. This may be used to close the meeting pursuant to the Minnesota Open Meeting Law. **The basis for closing the meeting and the applicable law must be stated into the record.**

“I move to close the meeting in order to consider _____ pursuant to _____ of the Minnesota Open Meeting Law.”

13. Motion to leave a closed session. This may be used to conclude a closed session and return to an open meeting.

“I move to open the meeting.”

14. Motion to revive consideration of an issue. This may be used to request consideration of an issue previously tabled, deferred, or referred to committee at any prior meeting.

“I move to revive consideration of _____ previously tabled/deferred/referred to committee.”

15. Motion to reconsider. This may be made only at the **same** meeting where the issue was originally considered and voted upon.

“I move to reconsider _____.”

16. Motion to rescind or repeal. This may be made at any meeting following the meeting where the issue was originally considered and voted upon.

“I move to rescind/repeal the council’s previous action related to _____ as stated in resolution number _____.”

17. Motion to prevent reintroduction of an issue for _____ months. This may be used to limit discussion.



“I move to prevent reintroduction of this issue for _____ months.”

18. Motion to suspend the rules or to consider a motion informally. This permits informal discussion.

“I move that we suspend the rules and proceed informally in discussing the issue of _____.”

Appendix E: Council Handouts

For use with Minnesota Mayors Association *Rules of Order for City Councils*

A. Simple Principles for Making Meetings Work-

1. Let the presiding officer manage the meeting.
2. Wait to be recognized by the presiding officer before speaking.
3. Be courteous and civil. Limit debate to the discussion of ideas. Do not make personal attacks.
4. Maintain decorum in the chambers. Do not have side conversations or disrupt the meeting through words or conduct.

B. Problem Solving Hints

Problem one: Meetings are taking too long.

Potential solutions:

- a. The presiding officer should follow the agenda and limit discussion and debate to the current agenda item. Council members who speak on topics not related to the current agenda can be called to order by the presiding officer.
- b. The presiding officer should not open discussion and debate on an agenda item until after an actual motion for action has been made. This clarifies the discussion and makes the process more efficient. A line can be added to the council agenda for each item with staff's proposed motion language.
- c. The presiding officer should utilize the time limits established in Rule 5a. When individual council members notice that the time limits are not being observed, they can make a motion to have the presiding officer call for order.
- d. When debate appears to be lengthy but unproductive, council members can make a motion to limit the time for debate. Sometimes setting a deadline for making a decision can be helpful.
- e. When debate has continued for at least 20 minutes or everyone on council has had an opportunity to speak, a council member may make a motion to "call the question." If approved, the main motion must be voted upon instantly.

Problem two: The minute taker and/or council members are confused about what has been approved or disapproved.

Potential solutions:

- a. All council action should be stated in a motion and voted upon. Even when the council has agreed by motion to discuss things informally, all decisions should be ratified in a formal motion that is put to a vote.
- b. Complex motions and their amendments can be put in writing. Resolutions should always be numbered, in writing, and adopted by a simple motion, “I move to adopt resolution number ____.”
- c. The presiding officer should state the motion being considered prior to opening debate and prior to voting. Once a vote has occurred, the presiding officer should state whether the motion carried or failed.
- d. Only one motion for council action may be considered at a time.
- e. Amendments to motions are limited to two amendments. These amendments should also be stated by the presiding officer prior to opening debate and voting.
- f. In making amendments, the proponent of an amendment should use concise language—preferably the model language identified in the rules, including:

“I move to amend the motion by inserting between and”; or

“I move to amend the motion by adding after”; or

“I move to amend the motion by striking out”; or

“I move to amend the motion by striking out and inserting”; or

“I move to amend by striking out the motion and substituting the following.”

Problem three: One particular member of council disrupts the proceedings, and insults and verbally attacks other council members.

Potential solutions:

- a. No person, including a council member, has the right to disrupt the council’s proceedings through fighting, threatening physical harm, or engaging in offensive, noisy, obscene or abusive conduct. *This is a crime pursuant to Minn. Stat. § 609.72.* Aggressive, threatening conduct cannot be tolerated. The presiding officer should follow the council’s adopted bylaws to issue warnings when such conduct occurs and then order removal of the person by the sergeant-at-arms.
- b. The presiding officer can remind the council member that the rules require all remarks to be addressed to the presiding officer alone. If the conduct persists, the

presiding officer can rule the person out of order and follow the council's procedures for discipline through censure and/or temporary removal from the meeting.

- c. The presiding officer can remind the council member that the rules require time limits on comments. If the conduct persists, the presiding officer can rule the person out of order and follow the council's procedures for discipline through censure and/or temporary removal from the meeting.
- d. Members of the council may request action by the presiding officer to curb another member's conduct through a motion for a call to order. The motion may request a specific response to conduct by the presiding officer. For example, "I make a motion for the presiding officer to call Council member _____ to order and to desist from making personal attacks."
- e. Members of the council may make a motion for adjournment or for a brief recess, if a council member's actions are so offensive as to disrupt the orderly process of the meeting.

Problem four: Council keeps revisiting the same issue over and over again. It's a waste of time, but one member can't help but bring up their "pet" project at every meeting—even though the council has voted the idea down several times.

Potential solutions:

- a. The presiding officer can rule out of order motions to reconsider or rescind council actions if they are not made at the appropriate time by the appropriate person, or where reliance on the council's previous decision has occurred (for example, in the area of contracts or hiring/termination of employees).
- b. A council member may make a motion to limit debate.
- c. A council member may make a motion to table or defer the matter.
- d. A council member may make a motion to refer the matter to a committee.
- e. A council member may make a motion to delay consideration of the matter for a specified amount of time. Six months is recommended.

Problem five: The council members can't agree on anything, or are so deeply divided over one particular controversial issue that it has affected civil discussion on all matters.

Potential solutions:

- a. The presiding officer should insist that all members of council observe council bylaws and rules of order that speak to decorum. In particular, the presiding officer can remind council members that the rules require all remarks to be addressed to the

presiding officer alone. Rules should be enforced in a neutral manner applicable to everyone.

- b. The city council may wish to consider that application of rules of procedure alone may not solve the problem. Where divisions among council are particularly fractious, a skilled facilitator may need to be brought in to help council place their divisions in an appropriate perspective against the broader needs of the city.

Appendix F: Sample Statement of Values

Created by the League of Minnesota Cities Ethics Advisory Panel – October 2009; Revised December 2017

Preamble

The proper operation of democratic government requires that decision-makers be independent, impartial, and accountable to the people they serve. The City of _____ has adopted this Statement of Values to promote and maintain the highest standards of personal and professional conduct in the city's government. All (*select*: elected and appointed officials, city employees, and volunteers) are required to subscribe to this statement, understand how it applies to their specific responsibilities, and practice its (*number*) core values in their work. Because we seek public confidence in the city's services and public trust of its decision-makers, our decisions and our work must meet the most demanding ethical standards and demonstrate the highest levels of achievement in following this statement.

The values

As a representative of the City of _____,

1. I serve the public interest.
2. I fulfill the duties and responsibilities of holding public office.
3. I am ethical.
4. I am professional.
5. I am fiscally responsible.
6. I am conscientious.
7. I communicate effectively.
8. I am collaborative.
9. I am forward thinking.
10. I am _____.

Value examples/expressions

1. **I serve the public interest. In practice, this value means that:**
 - a. I provide courteous, equitable, and prompt service to everyone.
 - b. I am attuned to and care about the needs and issues of citizens, public officials, and city workers.
 - c. I am interested, engaged, and responsive in my interactions with constituents.
 - d. I recognize and support the public's right to know the public's business.
2. **I fulfill the duties and responsibilities of holding public office. In practice, this value means that:**
 - a. I observe the highest standards of integrity in my official acts and undertake my responsibilities for the benefit of the greater public good.

- b. I faithfully discharge the duties of my office regardless of my personal considerations, recognizing that the public interest is my primary concern.
- c. I uphold the Constitution of the United States and the Constitution of the state of Minnesota and carry out impartially the laws of the nation, state, and municipality and thus foster respect for all government.
- d. I comply with both the letter and the spirit of the laws and policies affecting operations of the city.
- e. I recognize my obligation to implement the adopted goals and objectives of the city in good faith, regardless of my personal views.
- f. I conduct myself in both my official and personal actions in a manner that is above reproach.
- g. I do not use my position to secure for myself or others special privileges or exemptions that are different from those available to the general public.
- h. I understand and abide by the respective roles and responsibilities of elected and appointed officials and city staff and will not undermine them in their work.
- i. I am independent, impartial, and fair in my judgment and actions.

3. I am ethical. In practice, this value means that:

- a. I am trustworthy, acting with the utmost integrity and moral courage.
- b. I am truthful, do what I say I will do, and am reliable.
- c. I am accountable for my actions and behavior and accept responsibility for my decisions.
- d. I make impartial decisions, free of influence from unlawful gifts, narrow political interests, and financial and other personal interests that impair my independence of judgment or action.
- e. I am fair, distributing benefits and burdens according to consistent and equitable criteria.
- f. I oppose all forms of harassment and unlawful discrimination.
- g. I extend equal opportunities and due process to all parties in matters under consideration.
- h. I show respect for confidences and confidential information.
- i. I avoid giving the appearance of impropriety and of using my position for personal gain.

4. I am professional. In practice, this value means that:

- a. I apply my knowledge and expertise to my assigned activities and to the interpersonal relationships that are part of my job in a consistent, confident, competent, and productive manner.
- b. I approach my job and work-related relationships with a positive attitude, contributing to a supportive, respectful, and non-threatening work environment.
- c. I keep my professional knowledge and skills current and growing.
- d. I am respectful of all city staff, officials, volunteers, and others who participate in the city's government.

5. I am fiscally responsible. In practice, this value means that:

- a. I make decisions after prudent consideration of their financial impact, taking into account the long-term financial needs of the city, especially its financial stability.

- b. I demonstrate concern for the proper use of city assets (e.g., personnel, time, property, equipment, funds), follow established procedures, and do not use public resources for personal gain.
- c. I make decisions that seek to preserve the financial capacity of the city to provide programs and services for city residents.
- d. I provide full disclosure of any potential financial or other private conflict of interest. I abstain from participating in the discussion and vote on these matters.
- e. I prevent misuse of public funds by establishing, maintaining, and following strong fiscal and management controls.
- f. I report any misuse of public funds of which I am aware.

6. I am conscientious. In practice, this value means that:

- a. I act in an efficient manner, making decisions and recommendations based upon research and facts, taking into consideration short- and long-term goals.
- b. I follow through in a responsible way, keeping others informed, and responding in a timely fashion.
- c. I am respectful of established city processes and guidelines.
- d. I prioritize my duties so that the work of the city may move forward.
- e. I prepare for all meetings by reviewing any materials provided ahead of time. When I have materials to contribute, I make sure all others involved have ample time to review these materials prior to the meeting.

7. I communicate effectively. In practice, this value means that:

- a. I convey the city's care for and commitment to its citizens.
- b. I communicate in various ways that I am approachable, open-minded, and willing to participate in dialogue.
- c. I engage in effective two-way communication by listening carefully, asking questions, and responding appropriately, which adds value to conversations.
- d. I do not interfere with the orderly conduct of meetings by interrupting others or making personal comments not germane to the business at hand.
- e. I follow up on inquiries in a timely manner.
- f. I encourage and facilitate citizen involvement in policy decision-making.
- g. I am respectful in disagreements and contribute constructively to discussions on the issue.

8. I am collaborative. In practice, this value means that:

- a. I act in a cooperative manner with groups and other individuals, working together in a spirit of tolerance and understanding to accomplish common goals.
- b. I share information with others in a timely manner so that, together, we can make informed decisions.
- c. I work toward consensus building and gain value from diverse opinions.
- d. I accomplish the goals and responsibilities of my individual position, while respecting my role as a member of a team.

9. I am forward thinking. In practice, this value means that:

- a. I promote intelligent, proactive, and thoughtful innovation in order to advance the city's policy agenda and provide city services while considering the broader regional, statewide, national, and international implications of the city's decisions and issues.
- b. I maintain consistent standards, but am also sensitive to the need for compromise, creative problem solving, and making improvements when appropriate.
- c. I am open to new ideas and processes, adopting them as they conserve resources and provide efficient and effective service.
- d. I consider the potential long-term consequences and implications of my actions and inactions.

Appendix G: Sample Code of Conduct

Created by the League of Minnesota Cities Ethics Advisory Panel – October 2009; Revised December 2017

____.01. Purpose.

The City Council of the City of _____ determines that a code of conduct for its members, as well as the members of the various boards and commissions of the City of _____, is essential for the public affairs of the city. By eliminating conflicts of interest and providing standards for conduct in city matters, the City Council hopes to promote the faith and confidence of the citizens of _____ in their government and to encourage its citizens to serve on its council and commissions.

____.02. Standards of conduct.

Subd. 1. No member of the City Council or a city board or commission may knowingly:

- a. Violate the Open Meeting Law.
- b. Participate in a matter that affects the person's financial interests or those of a business with which the person is associated, unless the effect on the person or business is no greater than on other members of the same business classification, profession, or occupation.
- c. Use the person's public position to secure special privileges or exemptions for the person or for others.
- d. Use the person's public position to solicit personal gifts or favors.
- e. Use the person's public position for personal gain.
- f. Except as specifically permitted pursuant to Minn. Stat. 471.895, accept or receive any gift of substance, whether in the form of money, services, loan, travel, entertainment, hospitality, promise, or any other form, under circumstances in which it could be reasonably expected to influence the person, the person's performance of official action, or be intended as a reward for the person's official action.
- g. Disclose to the public, or use for the person's or another person's personal gain, information that was gained by reason of the person's public position if the information was not public data or was discussed at a closed session of the City Council.
- h. Disclose information that was received, discussed, or decided in conference with the city's legal counsel that is protected by the attorney-client privilege unless a majority of the City Council has authorized the disclosure.
- i. *Represent private interests before the City Council or any city committee, board, commission, or agency. (optional)*

Subd. 2. Except as prohibited by the provisions of Minn. Stat. § 471.87, there is no violation of subdivision 1 b. of this section for a matter that comes before the council, board, or commission if the member of the council, board, or commission publicly discloses the circumstances that

would violate these standards and refrains from participating in the discussion and vote on the matter. Nothing herein shall be construed to prohibit a contract with a member of the City Council under the circumstances described under Minn. Stat. § 471.88, if proper statutory procedures are followed.

___.03. Complaint, hearing.

Any person may file a written complaint with the city clerk alleging a violation of the standards of conduct in section __.02. The complaint must contain supporting facts for the allegation.

The City Council may hold a hearing after receiving the written complaint or upon the council's own volition. A hearing must be held only if the City Council determines:

- 1) upon advice of the city attorney, designee, or other attorney appointed by the council, that the factual allegations state a sufficient claim of a violation of these standards or rise to the level of a legally recognized conflict of interest, and
- 2) that the complaint has been lodged in good faith and not for impermissible purposes such as delay.

The City Council's determination must be made within 30 days of the filing of the allegation with the city clerk. If the council determines that there is an adequate justification for holding a hearing, the hearing must be held within 30 days of the City Council's determination.

At the hearing, the person accused must have the opportunity to be heard. If, after the hearing, the council finds that a violation of a standard has occurred or does exist, the council may censure the person, refer the matter for criminal prosecution, request an official not to participate in a decision, or remove an appointed member of an advisory board or commission from office.

City of Alexandria Code of Conduct for Elected Officials, Amended June 22, 2020

The Three Rs of Alexandria Government Leadership: Roles, Responsibilities and Respect

The Home Rule Charter of the City of Alexandria and the Alexandria City Code provide information on the more formal duties of Councilmembers, the Mayor, and the President Pro Tempore. The City's Code of Ethics Policy (most recently adopted in 2009) provides guidance related to conflicts of interest. To further clarify the conduct expectations of Councilmembers and the Mayor, the Council in 2016 adopted a Code of Conduct for Alexandria's elected officials. After careful review of the Code of Conduct, the Council has determined that it is in the public interest to amend it as noted herein.

This Code of Conduct is designed to describe the manner in which the Mayor and Councilmembers should treat one another, city staff, consultants, constituents, and others they come into contact with in representing the City of Alexandria. It reflects the work of the Mayor and City Council in defining more clearly the behavior, manners, and courtesies that are suitable for various occasions. In concert with this document, the Mayor and City Council may wish to consider policy changes and clarifications designed to make public meetings and the process of governance run more smoothly.

The contents of this Code of Conduct includes:	Page
Overview of Roles & Responsibilities	2
Policies & Protocol Related to Conduct	3
Mayor and Council Conduct with One Another	4
Mayor and Council Conduct with City Staff	6
Mayor and Council Conduct with the Public	7
Mayor and Council Conduct in Unofficial Settings	8
Mayor and Council Conduct with Other Public Agencies	8
Mayor and Council Conduct with the Media	10
Sanctions	11
Principles of Proper Conduct/Statement of Values	12
Checklist for Monitoring Conduct	13

The constant and consistent theme through all of the conduct guidelines is "respect." The Mayor and Councilmembers experience stress in making decisions that impact the lives of the citizens. At times, the impacts of the entire community must be weighed against the impact of only a few. Despite these pressures, elected officials are called upon to exhibit appropriate behavior at all times. Demonstrating respect for each individual through words and actions is the touchstone that can help guide the Mayor and Councilmembers to do the right thing in even the most difficult situations.

Overview of Roles & Responsibilities

Other resources that are helpful in defining the roles and responsibilities of elected officials are the Home Rule Charter of the City of Alexandria, Alexandria City Code, and League of Minnesota Cities resources for elected officials, including the *Handbook for Minnesota Cities* and the *Minnesota Mayors Handbook*, among many other publications.

MAYOR

- Elected “at-large” for a four year term (Note the Charter still calls for two year terms for the Mayor and Council. The City Council passed a transitional ordinance in 1996 that resulted in four-year terms for the Mayor and City Council)
- Presiding officer of the council (Alexandria City Charter, Section 2.03, Subd. 1)
- Chief Executive Officer of the City (Alexandria City Charter, Section 2.03, Subd. 1)
- Votes in the event of a tie vote by the City Council (Alexandria City Charter, Section 2.02, Subd. 1)
- Holds veto power (Alexandria City Charter, Section 2.03, Subd. 2)
- Executes and authenticates ordinances and resolutions (Alexandria City Charter, Section 3.03 and 3.05)
- Leads the Council into an effective, cohesive working team

PRESIDENT PRO-TEMPORE

- Elected by the City Council at their first meeting in January of each year (Alexandria City Charter, Section 2.03, Subd. 1)
- Performs the duties of the Mayor if the Mayor is absent or disabled (Alexandria City Charter, Section 2.03, Subd. 1)

ALL COUNCIL MEMBERS

All members of the City Council, including president pro tempore, have equal votes. No Councilmember has more power than any other Councilmember, and all should be treated with equal respect.

All Councilmembers should:

- Fully participate in City Council meetings and other public forums while demonstrating respect, kindness, consideration, and courtesy to others
- Prepare in advance of meetings and be familiar with issues on the agenda
- Represent the City at ceremonial functions at the request of the Mayor
- Be respectful of other people’s time
- Stay focused and act efficiently during public meetings.
- Serve as a model of leadership and civility to the community
- Inspire public confidence in Alexandria government
- Demonstrate honesty and integrity in every action and statement
- Participate in scheduled activities

Policies & Protocol Related To Conduct

Ceremonial Events

Requests for a City representative at ceremonial events will be directed to the Mayor. The Mayor will serve as the designated City representative. If the Mayor is unavailable, the Mayor will determine if event organizers would like another representative from the Council. If yes, then the President Pro Tempore will be recommended to serve as the substitute. Invitations received at City Hall are presumed to be for official City representation.

Correspondence Signatures

The Mayor and Councilmembers do not need to acknowledge the receipt of correspondence relating to City business, or copies of such correspondence, during Council meetings. City staff will prepare official letters in response to public inquiries and concerns. These letters will carry the signature of the Mayor or the appropriate City staff. If correspondence is addressed only to the Mayor or to one Councilmember, that correspondence will be shared with the rest of the Council.

Endorsement of Candidates and Ballot Initiatives

The Mayor and Councilmembers have the right to endorse candidates for all Council seats, other elected offices, and ballot initiatives by other government bodies. It is inappropriate to include such items on any Council agenda or to mention those endorsements during Council meetings or other official City meetings or functions.

Intergovernmental Relations

The Mayor and Council value intergovernmental relations with neighboring communities and other entities. As a result, the Mayor and Councilmembers should make a concerted effort to attend scheduled meetings with other entities to further promote intergovernmental relations.

Legislative Process

The procedural rules adopted by the City Council will be the governing guide for council proceedings.

Public Meeting Hearing Protocol

The Mayor will determine the meeting protocol on a case-by-case basis, taking into account any legally-required protocols that may apply in certain circumstances. Generally, the Mayor will open the public hearing, and staff will then make an initial presentation. After the staff presentation, the applicant or appellant, if any, shall be given the opportunity to speak first, followed by those with opposing views. In situations where there is no applicant or appellant, members of the public will be invited to speak in any order deemed appropriate by the Mayor. If deemed necessary by the Mayor, any speaker who has already spoken may be given the opportunity to respond to comments made by others. The Mayor has the responsibility to run an efficient public meeting and has the discretion to modify the public hearing process in order to make the meeting run smoothly. This includes determining how much time will be allowed for each speaker, with 3 to 5 minutes the standard time granted. The Mayor may also limit presentations of viewpoints that are repetitive of comments that have already been made and may exclude any person who exhibits disorderly conduct or other inappropriate or unlawful behavior. The Mayor may ask the Council if any issues need clarification before the public hearing is closed. The Mayor and

Councilmembers will not express opinions during the public hearing portion of the meeting except to ask pertinent questions of the speaker or staff. "I think" and "I feel" comments by the Mayor and Councilmembers are not appropriate until after the close of the public hearing. The Mayor and Councilmembers should refrain from arguing or debating with the public during a public hearing and shall always show respect for different points of view. Once the Mayor is satisfied that all information that could be gathered during the public hearing has been gathered, the Mayor shall close the public hearing and resume the Council meeting.

EEO, Discrimination, Harassment and Respectful Workplace

The Mayor and all councilmembers shall be familiar with and adhere to the City's equal employment opportunity, discrimination, sexual and other harassment and respectful workplace policies.

Mayor and Council Conduct with One Another

Councils are composed of individuals with a wide variety of backgrounds, personalities, values, opinions, and goals. Despite this diversity, all have chosen to serve in public office in order to preserve and protect the present and the future of the community. In all cases, this common goal should be acknowledged even as the Mayor and Council may "agree to disagree" on contentious issues.

IN PUBLIC MEETINGS

• Practice civility, professionalism and decorum in discussions and debate

Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of a free democracy in action. This does not allow, however, the Mayor and Councilmembers to make belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging comments. No shouting or physical actions that could be construed as threats will be tolerated. The Mayor and Councilmembers should conduct themselves in a professional manner at all times.

• Honor the role of the Mayor in maintaining order

It is the responsibility of the Mayor to keep the comments of Councilmembers on track during public meetings. Councilmembers should honor efforts by the Mayor to focus discussion on current agenda items. If there is disagreement about the agenda or the Mayor's actions, those objections should be voiced politely and with reason, following procedures outlined in the procedural rules adopted by the Council.

• Avoid personal comments that could offend other Councilmembers

If a Councilmember is personally offended by the remarks of another Councilmember, the offended Councilmember should note their concerns during the meeting and make notes of the actual words used and follow the Council's procedural rules to request the other Councilmember to justify or apologize for the language used. The Mayor will maintain control of this discussion.

- **Demonstrate effective problem-solving approaches**

The Mayor and Councilmembers have a public stage to show how individuals with disparate points of view can find common ground and seek a compromise that benefits the community as a whole.

- **Be punctual and keep comments relative to topics discussed**

The Mayor and Councilmembers have made a commitment to attend meetings and participate in discussions. Therefore, it is important that the Mayor and Councilmembers be punctual and that meetings start on time. It is equally important that discussions on issues be relative to the topic at hand to allow adequate time to fully discussed scheduled issues.

IN PRIVATE ENCOUNTERS

- **Continue respectful behavior in private**

The same level of respect and consideration of differing points of view that is deemed appropriate for public discussions should be maintained in private conversations.

- **Be aware of the insecurity of written notes, voicemail messages, e-mail, text messages, “tweets,” and social media**

Technology allows words written or said without much forethought to be distributed wide and far. Before recording or putting something in writing, consider:

- Would you feel comfortable to have this note faxed to others?
- How would you feel if this voicemail message was played on a speaker phone in a full office?
- What would happen if this e-mail or text message was forwarded to others?
- How would you feel if this comment, image, video, “tweet,” or social media post went “viral” for the world to see and read?
- Written notes, voicemail messages, email and social media posts should be treated as potentially "public" communication. It is the responsibility of the City Council to be aware of and follow the City’s Data Practices Policy and the Minnesota Government Data Practices Act (“MGDPA”).
- If the communication is between Councilmembers, could this conversation or written exchange, including emails, text messages, and other forms of electronic communication violate Minnesota’s Open Meetings Law?

- **Even private conversations can have a public presence**

Elected officials are always on display – their actions, mannerisms, and language are monitored by people around them that they may not know. Lunch table conversations will be eavesdropped upon, parking lot debates and arguments will be watched, and casual comments between individuals before and after public meetings noted. Before Council meetings are opened and after they are closed, Councilmembers should avoid any pre- and post-meeting discussions amongst themselves, as such conversations could violate Minnesota’s Open Meetings Law, or at least be perceived as a violation.

Mayor and Council Conduct with City Staff

Governance of a City relies on the cooperative efforts of elected officials, who set policy, and City staff, who implement and administer the Council's policies. Therefore, every effort should be made to be cooperative and show mutual respect for the contributions made by each individual for the good of the community.

- **Treat all staff as professionals**

Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. Poor behavior towards staff is not acceptable.

- **Limit contact to specific City staff**

Questions of City staff and/or requests for additional background information should be directed to the City Administrator, Mayor, or Department Heads. The City Administrator should be copied on or informed of any request.

Requests for follow-up or directions to staff should be made only through the City Administrator. When in doubt about what staff contact is appropriate, Councilmembers should ask the City Administrator or Mayor for direction. Materials supplied to a Councilmember in response to a request will be made available to the Mayor and all members of the Council so that all have equal access to information.

- **Do not disrupt City staff from their jobs**

The Mayor and Councilmembers should not disrupt City staff while they are in meetings, on the phone, or engrossed in performing their job functions in order to have their individual needs met. As a matter of courtesy and effective time management, Councilmembers should schedule appointments with staff in advance.

- **Never publicly criticize an individual employee**

The Mayor and Council should never express concerns about the performance of a City employee in public, to the employee directly, or to the employee's manager. Comments about staff performance should only be made to the City Administrator through private correspondence or conversation. Councilmembers must respect the City's employees' right to data privacy under the MGDPA.

- **Do not get involved in administrative functions**

The Mayor and Councilmembers must not attempt to influence City staff on the making of appointments, awarding of contracts, selecting of consultants, processing of development applications, or granting of City licenses and permits.

- **Check with City staff on correspondence before taking action**

Before sending correspondence, the Mayor and Councilmembers should check with City staff to see if an official City response has already been sent or is in progress.

- **Do not attend meetings with City staff unless requested by staff.**

Even if the Mayor and/or Councilmember does not say anything, the Mayor and/or Councilmember's presence implies support, shows partiality, intimidates staff, and hampers staff's

ability to do their job objectively.

- **Limit requests for staff support**

Requests for additional staff support – even in high priority or emergency situations – should be made to the City Administrator who is responsible for allocating City resources in order to maintain a professional, well-run City government.

- **Do not solicit political support from staff**

The Mayor and Councilmembers should not solicit any type of political support (financial contributions, display of posters or lawn signs, name on support list, etc.) from City staff. City staff may, as private citizens with constitutional rights, support political candidates but all such activities must be done away from the workplace.

Mayor and Council Conduct with the Public

IN PUBLIC MEETINGS

Making the public feel welcome is an important part of the democratic process. No signs of partiality, prejudice or disrespect should be evident on the part of the Mayor or individual Councilmembers toward an individual participating in a public forum. Every effort should be made to be fair and impartial in listening to public testimony or comment.

- **Be welcoming to speakers and treat them with care and gentleness**

Speaking in front of the Mayor and Council can be a difficult experience for some people. Some issues the Council undertakes may affect people's daily lives and homes. Some decisions are emotional. The way that the Mayor and Council treats people during public hearings can do a lot to make them relax or to push their emotions to a higher level of intensity. Deescalating a situation will lead to a more productive outcome for all involved and the community as whole.

- **Give the appearance of active listening**

It is disconcerting to speakers to have the Mayor and Council members not look at them when they are speaking. It is fine to look down at documents or to make notes, but reading for a long period of time or gazing around the room gives the appearance of disinterest. Be aware of facial expressions, especially those that could be interpreted as "smirking," disbelief, anger or boredom.

- **Ask for clarification, but avoid debate and argument with the public**

Only the Mayor – not individual Councilmembers – may interrupt a speaker during a presentation. However, using the Council's rules of procedure, a Councilmember may ask the Mayor to address the situation if the speaker is off the topic or exhibiting behavior or language the Councilmember finds disturbing.

If speakers become flustered or defensive by Council questions, it is the responsibility of the Mayor to calm and focus the speaker and to maintain the order and decorum of the meeting. Questions by Councilmembers to members of the public testifying should seek to clarify or expand information. It is never appropriate to belligerently challenge or belittle the speaker. Council members' personal opinions or inclinations about upcoming votes should not be revealed until after the public

hearing is closed.

- **No personal attacks of any kind, under any circumstance**

The Mayor and Councilmembers should be aware that their body language and tone of voice, as well as the words they use, can appear to be intimidating or aggressive.

- **Follow the Council's rules of procedure in conducting public meetings**

The City Attorney serves as advisory parliamentarian for the City and is available to answer questions or interpret situations according to the Council's rules of procedure. Final rulings on procedural issues are made by the Mayor, subject to the Council's rules of procedure.

MAYOR AND COUNCIL CONDUCT IN UNOFFICIAL SETTINGS

- **Make no promises on behalf of the Council**

The Mayor and Councilmembers will frequently be asked to explain a Council action or to give their opinion about an issue as they meet and talk with constituents in the community. It is appropriate to express personal feelings or positions on an issue or to give a brief overview of City policy and to refer to City staff or Council for further information. It is inappropriate to overtly or implicitly promise Council action, or to promise City staff will do something specific (fix a pothole, remove a library book, plant new flowers, approve a license or permit, install a traffic sign, etc.).

- **Make no personal comments about the Mayor or other Councilmembers**

It is acceptable to publicly disagree about an issue, but it is unacceptable to make derogatory comments about the Mayor or other Councilmembers, their opinions and actions.

- **Remember that despite its continued growth, Alexandria is a small community at heart**

The Mayor and Councilmembers are constantly being observed by the community every day that they serve in office. Their behaviors and comments serve as models for proper deportment in the City of Alexandria. Honesty and respect for the dignity of each individual should be reflected in every word and action taken by the Mayor and Councilmembers, 24 hours a day, seven days a week. It is a serious and continuous responsibility.

Mayor and Council Conduct with Other Public Agencies

- **Be clear about representing the City or personal interests**

If the Mayor or a Councilmember appears before another governmental agency or organization to give a statement on an issue, the Mayor or Councilmember must clearly state:

- 1) If his or her statement reflects personal opinion or is the official stance of the City;
- 2) Whether this is the majority or minority opinion of the Council, if the Council has taken a position on the matter. Even if the Mayor or Councilmember is representing his or her own personal opinions, remember that this still may reflect upon the Council as an organization and the City as a whole.

If the Mayor or Councilmember is representing the City, the Mayor or Councilmember must support and advocate the official City position on an issue, not a personal viewpoint even if the Councilmember may personally disagree with the City's official position.

If the Mayor or Councilmember is representing another organization whose position is different from the City, the Mayor or Councilmember should withdraw from voting on the issue if it significantly impacts or is detrimental to the City's interest. The Mayor and Councilmembers should be clear about which organizations they represent and inform the Mayor and Council of their involvement.

- **Correspondence also should be equally clear about representation**

City letterhead may be used when the Mayor or Councilmember is representing the City and the City's official position. A copy of official correspondence should be given to the City Administrator to be filed as part of the permanent public record.

City letterhead may not be used for correspondence of the Mayor and Councilmembers representing a personal point of view, or a dissenting point of view from an official Council position.

Mayor and Council Conduct with Boards, Committees and Commissions

The City has established several Boards, Committees, and Commissions as a means of gathering more community input. Citizens who serve on Boards and Commissions become more involved in government and serve as advisors to the Mayor and City Council. They are a valuable resource to the City's leadership and should be treated with appreciation and respect.

- **If attending a Board or Commission meeting of which the Councilmember is not a member, be careful to only express personal opinions** The Mayor and Councilmembers may attend any Board or Commission meeting, which are always open to any member of the public. However, if the Board or Commission is conducting a public hearing, the Mayor or Councilmember shall remove themselves from the proceedings. The Mayor and Councilmembers should be sensitive to the way their participation – especially if it is on behalf of an individual, business or developer – could be viewed as unfairly affecting the process. Any public comments by the Mayor or a Councilmember at a Board or Commission meeting should be clearly made as individual opinion and not a representation of the feelings of the entire City Council. Also, the Mayor or a Councilmember's presence may affect the conduct of the Board or Commission and limit their role and function. In addition, Councilmembers must be cognizant of how their presence impacts any potential quorum of the Council and, therefore, the resulting implications under Minnesota's Open Meeting Law.

- **Limit contact with Board and Commission members**

It is inappropriate for the Mayor or a Councilmember to contact a Board or Commission member to lobby on behalf of an individual, business, or developer. The Mayor and Councilmembers should contact staff in order to clarify a position taken by the Board or Commission.

- **Remember that Boards and Commissions serve the community, not the Mayor or individual Councilmembers**

The Mayor and City Council appoint individuals to serve on Boards and Commissions, and it is the

responsibility of Boards and Commissions to follow policy established by the Council. But Board and Commission members do not report to the Mayor or individual Councilmembers, nor should the Mayor or Councilmembers feel they have the power or right to threaten Board and Commission members with removal if they disagree about an issue. Appointment and re-appointment to a Board or Commission should be based on such criteria as expertise, ability to work with staff and the public, and commitment to fulfilling official duties. A Board or Commission appointment should not be used as a political "reward."

- **Be respectful of diverse opinions**

A primary role of Boards and Commissions is to represent many points of view in the community and to provide the Mayor and Council with advice based on a full spectrum of concerns and perspectives. The Mayor and Councilmembers must be fair and respectful of all citizens serving on Boards and Commissions.

- **Keep political support away from public forums**

Board and Commission members may offer political support to the Mayor or a Councilmember, but not in a public forum while conducting official duties. Conversely, the Mayor or Councilmembers may support Board and Commission members who are running for office, but not in an official forum in their capacity as the Mayor or a Councilmember.

- **Inappropriate behavior can lead to removal**

Inappropriate behavior by a Board or Commission member should be noted to the Mayor, and the Mayor should counsel the offending member. If inappropriate behavior continues, the Mayor should bring the situation to the attention of the Council which shall decide the appropriate action, which may include removal from the Board or Commission.

Mayor and Council Conduct with the Media

The Mayor and Councilmembers may be contacted by the media for background and quotes.

- **The best advice for dealing with the media is to never go "off the record"**

Most members of the media represent the highest levels of journalistic integrity and ethics, and can be trusted to keep their word. But one bad experience can be catastrophic. Words that are not said cannot be quoted. Words that are said cannot be unsaid.

- **The Mayor is the official spokesperson for the representative on City position**

The Mayor is the designated representative of the Council to present and speak on the official City position. If an individual Councilmember is contacted by the media, the Councilmember should be clear about whether their comments represent the official City position or a personal viewpoint.

- **Choose words carefully and cautiously**

Comments taken out of context can cause problems. Be especially cautious about humor, sardonic asides, sarcasm, cursing or word play. When talking to the media, consider the same issues noted in the **In Private Encounters** section above.

Sanctions

• Public Disruption

Members of the public who do not follow proper conduct after a warning in a public hearing may be barred from further testimony at that meeting or removed from the Council Chambers.

• Inappropriate Staff Behavior

Council members should refer to the City Administrator any City staff who do not follow proper conduct in their dealings with Council members, other City staff, or the public. These employees may be disciplined in accordance with standard City procedures for such actions.

• Council members Behavior and Conduct

The Mayor or City Council members who intentionally and repeatedly do not follow proper conduct may be reprimanded or formally censured by the Council. Serious infractions of the Code of Ethics or Code of Conduct could lead to other sanctions as deemed appropriate by Council.

1. If the Mayor or a Councilmember believes that another Councilmember or the Mayor has violated this Code of Conduct or the City's Code of Ethics during a meeting of the Council, s/he should call the matter to the offending person's attention at that or a subsequent Council meeting. If the problem continues, it shall be referred to the Mayor (or the President Pro Tempore if the complaint is against the Mayor) who will attempt to resolve the matter in private. If the dispute is between the Mayor and the President Pro Tempore, the Council shall select one of its other members to attempt to privately resolve the matter. The Mayor (or President Pro Tempore or Council's designee, if any) may involve the City Administrator and/or City Attorney to investigate and make recommendations about the dispute. If these private efforts do not resolve the matter, then the Mayor or any member of the Council may bring it before the Council at a duly noted public meeting, at which time the Council shall decide whether or not to proceed with further action as noted in section 3 below.
2. If the Mayor or a Councilmember believes that another Councilmember or the Mayor has violated this Code of Conduct or the City's Code of Ethics at a time other than a meeting of the Council, s/he should call the matter to the offending person's attention and attempt to resolve it privately. If the problem is not resolved or continues after that informal discussion, it may be called to the attention of the Mayor (or the President Pro Tempore if it is the Mayor's actions that are being challenged) who shall attempt to privately resolve the matter. If the dispute is between the Mayor and the President Pro Tempore, then it shall be referred to the City Attorney who shall attempt to privately resolve the matter. The City Administrator shall be included in these efforts to privately resolve the matter. If these private efforts do not resolve the matter, then the elected official who initiated the complaint may raise it with the City Council at a duly noted public meeting, at which time the Council shall decide whether or not to proceed with further action as noted in section 3 below.
3. If a Code of Conduct or Code of Ethics complaint is raised with the City Council after informal efforts to resolve it have failed as described in 1 or 2 above, then the Council shall, at a duly noted public meeting, consider all available evidence and decide whether sanctions

are warranted, and if so, which sanction(s) to impose. Prior to making this decision, the Council may authorize the City Attorney, City Administrator, and/or other designee to investigate the matter further and to report his or her findings to the Council. The Council may also form an ad hoc committee to look into the matter. If, after considering all evidence presented, the Council determines that sanctions are warranted, the Council may take any and all lawful action it deems appropriate, including: requiring the offending member to undergo training or other appropriate education intended to fix the problem, censure, or terminating appointments to boards, committees and commissions.

Principles of Proper Conduct/Statement of Values

The proper operation of democratic government requires that decision-makers must be independent, impartial and accountable to the people they serve. All elected and appointed officials, City employees and volunteers shall subscribe to the statement below, understand how it applies to their specific responsibilities and practice this conduct and express these values in their work.

Representatives of the City of Alexandria.....

- Serve the public interest
- Fulfill the duties and responsibilities of holding public office
- Are forward thinking
- Keep promises
- Are dependable
- Build a solid reputation
- Participate and are available
- Demonstrate patience
- Practice fiscal responsibility
- Show empathy
- Hold onto ethical principles under stress
- Listen attentively
- Study thoroughly
- Keep integrity intact
- Overcome discouragement
- Go above and beyond, time and time again
- Model a professional manner

Proper conduct IS NOT ...

- Showing antagonism or hostility
- Deliberately lying or misleading
- Speaking recklessly
- Spreading rumors
- Stirring up divisiveness or controversy
- Acting in a self-righteous manner

It all comes down to respect

Respect for one another as individuals . . . respect for the validity of different opinions . . . respect for the democratic process . . . respect for the community that we serve.

Checklist for Monitoring Conduct/Values

- ✓ Will my decision/statement/action violate the trust, rights or good will of others?
- ✓ What are my interior motives and the spirit behind my actions?
- ✓ If I have to justify my conduct in public tomorrow, will I do so with pride or shame?
- ✓ How would my conduct be evaluated by people whose integrity and character I respect?
- ✓ Even if my conduct is not illegal or unethical, is it done at someone else's expense? Will it destroy their trust in me? Will it harm their reputation?
- ✓ Is my conduct fair? Just? Morally right? If I were on the receiving end of my conduct, would I approve and agree, or would I take offense?
- ✓ Does my conduct give others reason to trust or distrust me?
- ✓ Am I willing to take an ethical stand when it is called for? Am I willing to make my ethical beliefs public in a way that makes it clear what I stand for?
- ✓ Do I exhibit the same conduct in my private life as I do in my public life?
- ✓ Can I take legitimate pride in the way I conduct myself and the example I set?
- ✓ Do I listen and understand the views of others?
- ✓ Do I question and confront different points of view in a constructive manner?
- ✓ Do I work to resolve differences and come to mutual agreement?
- ✓ Do I support others and show respect for their ideas?
- ✓ Will my conduct cause public embarrassment to someone else or my community?

**RULES OF PROCEDURE AND DECORUM
CITY COUNCIL AND COMMITTEE MEETINGS
BRainerd, MINNESOTA**

Adopted April 4, 1994

Reaffirmed and Amended December 1, 2003; November 2, 2020

SECTION 1. PURPOSE

- Subd. 1. General. It is recognized that in order to enhance the concept of effective and democratic government, it is essential that a legislative body establish formal rules of procedure and decorum so that a true deliberative process will be observed and not disturbed.

SECTION 2. GENERAL

- Subd. 1. Law. The City Charter, Ordinances and State Statutes governing the City Council shall be followed and supplemented by these Rules of Procedure and Decorum.
- Subd. 2. General Rules. In all matters of parliamentary procedures, the Council shall be governed by the latest printed edition of the Sturgis Standard Code of Parliamentary Procedure as published from time to time except as modified by these rules.
- Subd. 3. Applicability. These Rules also apply to committees of the Council as well as City boards and commissions, whether created by Charter or City Code. The term “Council” shall be substituted with “Committee,” “Commission” or “Board,” and terms “President” and “Vice President” shall be substituted with “Chair” and “Vice Chair”, as appropriate.

SECTION 3. PRESIDING OFFICER

- Subd. 1. Who Presides. The Council President shall preside at all meetings of the Council. In the absence of the Council President, the Council Vice-President shall preside. The presiding officer shall have the power to preserve strict order and decorum at meetings, enforce the rules of procedure and determine without debate, subject to the final decision of the Council on appeal, all questions of procedure and order.
- Subd. 2. Appeal of the Ruling of the Presiding Officer. Any member of the Council may appeal from a ruling of the presiding officer. If the appeal is seconded, the member may speak once solely on the question involved and the presiding officer may explain the ruling, but no other Council member shall participate in the discussion. The appeal shall be sustained if it is approved by a majority vote.
- Subd. 3. Rights of the Presiding Officer. The presiding officer may speak on any question. The presiding officer may only make motions and second motions after stepping

down as presiding officer.

SECTION 4. AGENDA

Subd. 1. Matters for Consideration. Matters for Council action shall be submitted by members of the Council and residents to the City Administrator or to city staff representatives in the case of Committee business.

Subd. 2. Preparation. An agenda of business for each regular and special meeting shall be prepared in the Office of the City Administrator or by City Staff in the case of Committees and copies thereof delivered to each Council member as far in advance of the meeting as time for preparation will permit.

Subd. 3. Order of Business at Regular Meetings. At the hour appointed for the regular meeting of the City Council, the meeting shall be called to order by the presiding officer. If a quorum is present, the City Council shall then proceed with its business in the following order as applicable:

- * Call to Order
- * Roll Call
- * Pledge of Allegiance
- * Approval of Agenda
- * Consent Calendar, including approval of minutes, licenses, reports, bills, fund transfers and other routine, non-controversial items needing little or no deliberation
- * Presentations (if any)
- * Council Committee Reports (Personnel & Finance; Safety & Public Works)
- * Unfinished Business - action items including public hearings, ordinance readings and various other items requiring Council action
- * New Business - action items including public hearings, ordinance readings and various other items requiring Council action
- * Public Forum
- * Staff Reports (Verbal: Any updates since the packet)
- * Mayor's Report
- * Council Member Reports
- * Adjournment

Subd. 4. Varying Order of Business. The order of business may be varied by the presiding officer.

Subd. 5. Consent Calendar. Matters for the Council of a routine or non-controversial nature which need minimal Council deliberation shall be placed on the Consent Calendar. A motion to approve the Consent Calendar shall not be debated. At the request of any individual Council member, an item shall be removed from the Consent Calendar and placed upon the regular agenda for debate immediately following the Consent Calendar. The Consent Calendar shall only be adopted by a roll call vote of those Council members present at the meeting.

- Subd. 6. Items Not on the Agenda. The Council may consider items not appearing on the agenda as normal business if an objection is not raised by the Mayor or a Council member. If an objection is raised by the Mayor or a Council member to consider an item not appearing on the agenda, a vote shall be taken by the Council to determine the appropriateness of further consideration of the matter at that time.
- Subd. 7. Public Participation. Members of the public may address the City Council during:
- A: Public Hearings.
- B: Public Forum. This portion of the meeting shall be limited to fifteen minutes and individuals shall be requested to limit their comments to four minutes or less. If the majority of the Council determines that additional time on a specific issue is warranted, then discussion on that issue may be continued under New Business at the end of the agenda.
- C: Specific issues scheduled on the agenda but in accordance with Section 6, Subd. 6, of these rules entitled, Addressing the Council.
- Subd. 8. Written Communications on All Matters. All interested parties or their authorized representatives may address the Council by written communication regarding all matters under the Council's consideration. The City Administrator shall copy these communications to the Council and forward said communications with the Council meeting packet if possible. If written communications are received after meeting packets are delivered to the Mayor and Council, such communications will be handed out at the meeting.

SECTION 5. VOTING

- Subd. 1. Procedure. The votes of the members on any ordinance or resolution pending before the Council shall be by roll call vote. The votes of the members on any motion shall be by voice vote unless the Mayor or any member of the Council requests that a roll call vote be taken. The presiding officer shall call for a roll call vote whenever a voice vote of the Council is not clear as to the disposition of the action before the Council.
- Subd. 2. Abstention. If a Council member does not vote, the abstention shall be recorded as Abstain - name.
- Subd. 3. Voting Order for Roll Call (applicable to City Council only). The City Administrator shall call for the vote in consecutive order of Wards, with Ward One voting first rotating one position every two months. The presiding officer shall always vote last.

SECTION 6. RULES OF DECORUM

- Subd. 1. Members of Council. While the meeting is in session, the members must preserve

order and decorum. A member shall neither, by conversation or otherwise, delay or interrupt the proceedings or the peace of the meeting nor disturb any member while speaking or refuse to obey the orders of the presiding officer.

- Subd. 2. Recognition. No person or member shall address the other members without being recognized by the presiding officer.
- Subd. 3. Discussion. No member of the Council shall speak more than twice on any question, nor more than five minutes each time without consent of the Council.
- Subd. 4. Staff. Members of the City staff shall observe the same rules of order and decorum as are applicable to the City Council.
- Subd. 5. Pertinent to Matter Under Debate. Members, staff and public shall confine remarks to the matter under debate.
- Subd. 6. Addressing the Council. Each member of the public addressing the Council shall step up to a microphone provided for the use of the public after being recognized by the presiding officer and give his/her name and address in an audible tone of voice for the records, state the subject to be discussed and state who the speaker is representing if representing an organization or other persons. Unless further time is granted by a majority vote of the Council, remarks from the public shall be limited to four (4) minutes. All remarks shall be addressed to the Council as a whole and not to any member thereof. No person other than members of the Council and the person having the floor shall be permitted to enter into any discussion, either directly or through a member of the Council, without permission of the presiding officer. No question may be asked of a member or a member of the staff without the permission of the presiding officer.
- Subd. 7. Spokesperson for Group of Persons. In order to expedite matters and to avoid repetitious presentations, whenever any group of persons wishes to address the Council on the same subject, it shall be proper for the presiding officer to request that a spokesperson be chosen by the group to address the Council and, in case additional matters are to be presented by any other member of said group, to limit the number of such persons addressing the Council.
- Subd. 8. After Motion. After a motion has been made or a public hearing has been closed, no member of the public shall address the Council from the audience on the matter under consideration without first securing permission to do so by a majority vote of the City Council.
- Subd. 9. Conduct. Any member of the Council, staff or person indulging in personalities or making impertinent, slanderous or profane remarks or who willfully utters loud, threatening or abusive language, or engages in any disorderly conduct which would impede, disrupt or disturb the orderly conduct of any meeting, hearing or other proceeding, shall be called to order by the presiding officer and, if such conduct

continues, may at the discretion of the presiding officer, be ordered barred from further audience before the Council during that meeting.

- Subd. 10. Members of the Audience. No person in the audience shall engage in disorderly conduct such as hand clapping, stamping of feet, whistling, using profane language, yelling and similar demonstrations, which conduct disturbs the peace and good order of the meeting.

SECTION 7. ENFORCEMENT OF DECORUM

- Subd. 1. Warning. All persons shall, at the request of the presiding officer, be silent. If, after receiving a warning from the presiding officer, a person persists in disturbing the meeting, said officer may order this person removed from the meeting. If this person does not leave willingly, the presiding officer may call a recess and order that the person be removed by the Sergeant-at-Arms.
- Subd. 2. Sergeant-at-Arms. The Chief of Police, or such member or members of the Police Department, shall be Sergeant-at-Arms of the Council meetings or as asked to be present at a Committee meeting. The Chief or other Police Department representative shall carry out all orders and instructions given by the presiding officer for the purpose of maintaining order and decorum at the Council meeting. Upon instruction of the presiding officer, it shall be the duty of the Sergeant-at-Arms to remove from the meeting any person who intentionally disturbs the proceedings of the Council.
- Subd. 3. Resisting Removal. Any person who resists removal by the Sergeant-at-Arms may be charged with violating City Ordinance.
- Subd. 4. Motions to Enforce. Any Council member may move to require the presiding officer to enforce these rules and the affirmative vote of a majority of the Council shall require the presiding officer to do so.
- Subd. 5. Adjournment. In the event that any meeting is willfully disturbed by a group or group of persons so as to render the orderly conduct of such meeting unfeasible and when order cannot be restored by the removal of individuals who are creating the disturbance, the meeting may be adjourned with the remaining business considered at the next regular meeting.
- Subd. 6. Special Meetings. If the matter being addressed prior to adjournment is of such a nature as to demand immediate attention, the presiding officer may adjourn the meeting to another date.

SECTION 8. CAMERAS AND RECORDING DEVICES

- Subd. 1. Use of Cameras and Recording Devices Limited. Cameras, including television and motion picture cameras, electronic sound recording devices and any other mechanical, electrical or electronic recording devices may be used in the Council

Chamber, but only in such a manner as will cause a minimum of interference with or disturbance of the proceedings of the Council and at the discretion of the presiding officer.

SECTION 9. SEVERABILITY

Subd. 1. General. If any section, subsection, sentence, clause, phrase or portion of these Rules of Procedure and Decorum is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

CITY MEETINGS

CITIZEN PARTICIPATION GUIDELINES

The City Council is meeting as a legislative body to conduct the business of the City. Unless so ordered by the Council President, citizen participation is limited to the following times and always within the prescribed rules of conduct for public input at meetings.

A) Public Hearings. Public hearings are conducted so that the public affected by a proposal may have input into the decision. During hearings, all affected residents will be given an opportunity to speak.

B) Public Forum. Any member of the public may speak at this time on any item NOT on the agenda. In consideration for the public attending the meeting for specific items on the agenda, this portion of the meeting will be limited to fifteen (15) minutes. Individuals are requested to limit their comments to four (4) minutes or less. If the majority of the Council determines that additional time on a specific issue is warranted, then discussion on that issue may be continued under New Business at the end of the agenda.

Before addressing the City Council, members of the public are asked to step up to the microphone, give their name, address and state the subject to be discussed. All remarks shall be addressed to the Council as a whole and not to any member thereof. No person other than members of the Council and the person having the floor shall be permitted to enter into any discussion without permission of the presiding officer. No question may be asked of a member or a member of the staff without permission of the presiding officer.

Your participation, as prescribed by these rules, is welcomed and your cooperation is greatly appreciated.

CITY OF BREEZY POINT PERSONNEL POLICY

Approved by City Council: June 5, 2006
Amended June 4, 2007
Amended November 5, 2007
Amended April 6, 2009
Amended April 1, 2013
Amended May 19, 2015
Amended February 5, March 12, 2018
Amended January 6, 2020
Amended September 8, 2020
Amended May 3, 2021
Amended December 5, 2022

PERSONNEL POLICY
TABLE OF CONTENTS

CHAPTER

1. Introduction
2. Equal Employment Opportunity
3. Definitions
4. Hours of Work, Overtime, Compensatory Time, and On-Call
5. Holidays
6. Vacation Leave
7. Sick Leave
8. Leaves of Absence
9. Leave Donation
10. Employment
11. Promotion Introductory Period
12. Personnel Files
13. Employee Development and Career Advancement
14. Seniority, Layoff and Recall
15. Disciplinary Action
16. Employment Separation
17. Employee Group Insurance Benefits/Eligibility
18. Salary Administration
19. Expense Reimbursement
20. Employee Safety
21. Workers' Compensation; Injured-on-Duty
22. Employee Responsibility
23. Work Rules
24. Workplace Violence
25. Harassment and Offensive Behavior
26. Use of City Property
27. Grievance Procedure
28. Grandfathered Provisions

Chapter 1. INTRODUCTION

The City of Breezy Point has prepared this manual to provide general information about some of the city's employment related policies and programs, and to describe the city's view of the employment relationship. It is not intended to be a legal statement of benefits. This policy shall be known as the "Personnel Policy" and shall be referred to in the following sections as "this plan, the plan, or the policy".

These policies and employment related benefits and programs will likely change from time to time. Although this policy will periodically be revised to reflect changes, the city may implement changes immediately, without advance notice. The city is authorized to revise, delete or otherwise change policies, and to make the final determination in interpreting or applying policies.

If any policy in this manual is in conflict with Federal, state, or local law, such law will govern.

*Nothing contained herein or in any other or supplementary description of policies or employee benefits shall be construed as either a contract of employment or a contract to provide any benefit. Employees are employed "**at will**", and either the city or the employee may terminate the employment relationship at any time, with or without notice and for no reason or any reason not prohibited by law. The city reserves the right to add to, eliminate, or change the policies contained herein at any time and at its sole discretion.*

This personnel policy supersedes, replaces, and revokes any and all other handbooks, policies or manuals made available to or applicable to the City of Breezy Point. No policy manual other than this manual adopted by the City Council on April 1, 2013, has any force or effect. However, employees hired prior to June 5, 2006 will refer to the policy as it relates to Compensatory, Sick and Vacation time accrual, usage and pay-out which is articulated in Chapter 28. All provisions of this policy will apply to employees, except those provisions covered by a collective bargaining agreement.

This policy applies to employees and interns but does not apply to elected officials.

Chapter 2. EQUAL EMPLOYMENT OPPORTUNITY

Policy Statement. It is the policy of the City of Breezy Point to provide equal employment opportunity to all employees and applicants in accordance with applicable equal opportunity laws and regulations. In accordance with that commitment, all

decisions regarding employment shall occur without regard to any characteristic protected by law.

All employees have an obligation to perform their duties and to conduct themselves in the workplace and while engaged in work for the city in accordance with this policy.

Reporting Procedure. Any individual who believes that he/she has experienced or observed behavior contrary to this policy is expected to report that information to the City Administrator, Mayor or City Attorney. All such reports of action contrary to this policy will be taken seriously and investigated promptly. Individuals found to have violated the city's equal employment opportunity policy will be subject to discipline up to and including termination of employment. No individual shall be retaliated against for making a good faith report of behavior contrary to this policy.

Chapter 3. DEFINITIONS

Contractual Individual: Individuals who offer their services to the public and technically are not city employees according to IRS regulations. Contractual individuals are appointed by the City Council or City Administrator and are paid under a fee basis.

Employee: For purposes of this manual, the word employee includes regular full, part-time, and seasonal/temporary employees and interns.

Employment status: Defined by eligibility for overtime in accordance with the Fair Labor Standards Act as non-exempt or exempt from overtime. All employees, regardless of category, are employed at-will.

Immediate Family: Spouse, spouse's mother or father, children, adult children, step-children, grandchildren, step parents, parents, grandparents, brothers or sisters, step-brothers or sisters.

Intern: Students who are working for credit to gain practical experience.

Non-exempt positions: Those subject to the minimum wage and overtime provisions of the Fair Labor Standards Act. Wage payments for these positions are governed by that Act, and also by various state wage laws.

Non-Immediate Family: Cousin, aunt, uncle, etc.

Regular Full-time Employee: Any person employed by the city who is regularly

scheduled to work at least forty (40) hours a week or 2,080 hours in a year and does not have a defined termination date.

Regular Part-time Employee: Any person employed by the city who is regularly scheduled to work less than forty (40) hours a week and does not have a defined termination date.

Seasonal/Temporary Employee: Any person employed by the city in any department or function of the city, where the duty is of definite and limited duration regardless of the number of hours worked.

Volunteers: Individuals who are not employees that perform work for the city on a voluntary basis without compensation.

Employees who have questions about the employment category for their position should contact the City Administrator.

Chapter 4. HOURS OF WORK , OVERTIME, AND COMPENSATORY TIME

Standard Work Schedules. The standard work day consists of 8 hours of work within a 24-hour period and for licensed peace officers the standard work day consists of 10-12 hours of work within a 24-hour period. The standard work week consists of a week that shall commence 12:01 am on Sunday and run through 12 midnight Saturday, and it shall consist of 40 hours. For licensed peace officers the standard work week (an actual two-week period) shall commence at 12:01 AM on Sunday and run through 12 midnight Saturday 14 days (2 weeks) later, and it shall consist of 14 consecutive day period in which officers shall work a total of 80 hours, not necessarily on consecutive days. Business demands may sometimes require employees to work extra hours beyond those for which they are usually scheduled. When possible, the city will notify employees in advance if overtime will be necessary. However, employees are expected to be available, and to work the extra time when needed, regardless of what notice has been given. If a non-exempt employee anticipates a need to work extra hours, he or she must receive the supervisor's approval in advance.

Overtime. For the purposes of this Chapter, hours worked include actual hours worked, sick time, vacation time, compensatory time, and holiday time.

Overtime Rates. Employees in non-exempt positions are eligible to be paid for overtime at a rate of time and one-half (1.5) their regular pay for all hours over 40 worked in a work week. Employees in an exempt position are not eligible for overtime. Licensed

Peace Officers will be eligible for overtime only for hours over 80 in a 14-day work week.

Compensatory Time. Full-time non-exempt employees who work more than forty (40) hours per week may elect the use of compensatory time at time and one-half (1.5) hours for each additional hour worked. Non-exempt Licensed Peace Officers may elect the use of compensatory time at time and one-half (1.5) hours for each additional hour worked over 80 per work week. Full-time exempt employees are expected to work the number of hours required to perform their job which at times requires working in excess of 40 hours a week. The City will allow a carryover of no more than 40 hours of compensatory time at year end. The city reserves the right to deny the use of Compensatory time off if the organizational needs of the city necessitate the employee work.

Exempt Employees: It is recognized that full-time exempt employees are not eligible for overtime and compensatory time for work that exceeds forty (40) hours per week and may, therefore, absent themselves from the office to a reasonable extent in consideration of such additional time expenditures. To this extent, exempt employees are not required to track their hours worked on an hour by hour basis except for the usage of vacation and sick time.

Call Back Time. An employee who is called back for work during the employee's scheduled time off shall receive a minimum of two (2) hours pay. An extension or early report to a regularly scheduled shift for duty does not qualify the Employee for the two-hour minimum.

Chapter 5. HOLIDAYS

Eligibility. All regular full and part-time employees scheduled to work at least 20 hours per week are eligible for paid holidays. Full-time employees will be eligible for holiday pay, while part-time employees will be eligible for a pro-rated number of hours based upon the typical number of hours per day or days of the week scheduled to work.

Observed Holidays. The following days will be observed as paid holidays for all regular full and part-time employees:

Holiday

New Year's Day

Martin Luther King Day

Presidents Day

Memorial Day
Independence Day
Labor Day
Veterans Day
Thanksgiving Day
Day after Thanksgiving
Christmas Day
Juneteenth
One floating Holiday – must be used during the year that it is earned

If any holiday should fall on a Sunday, the following Monday will be considered the paid holiday, and if any holiday should fall on a Saturday, the preceding Friday will be considered the holiday.

Holiday Pay. Holiday pay shall be the employee's regular hourly rate of pay multiplied by the number of hours in his/her normal work day. Part-time employees shall have their holiday pay pro-rated according to their regularly scheduled work days and/or hours. In payroll periods that include a holiday, the City Administrator may allow part-time employees to arrange their work schedules to avoid a reduction in salary due to the pro-ration of holiday pay, provided such rescheduling does not result in the payment of overtime.

Work on a Holiday. On designated holidays, regular employees shall be paid straight time for the number of hours normally worked. This would be Holiday Pay as paid time off. Additionally, on a designated holiday, regular employees shall be paid at a rate of time and a half for actual hours worked.

Weekend Holiday Lift Pay. Checking lift stations when a holiday occurs in the work week provides for compensation to be paid for the two-hour minimum at double time.

Religious Holidays. When a religious holiday, not observed as one of those holidays listed above, falls on an employee's regularly scheduled work day, the employee may request that day off to observe the religious holiday.

Time to observe a religious holiday shall be taken without pay unless the employee uses accumulated vacation leave, compensatory time or by mutual consent with the City Administrator, is able to work an equivalent number of hours at some time during the same pay period to compensate for the hours lost. An employee shall notify the City Administrator of his/her intention to observe a religious holiday in advance of the holiday. Use of this provision shall not entitle an employee to overtime compensation

as provided in Chapter 4.

Chapter 6. VACATION LEAVE

Eligibility. All regular full and part-time employees, scheduled to work at least 20 hours per week and are in active payroll status, will accrue vacation.

Accruals and Accumulation. Employee shall accrue vacation leave each pay period according to the annual rates provided below. Regular part-time employees scheduled to work at least 20 hours per week shall earn vacation on a pro-rata basis.

Full-time employees are allowed to carry over up to 240 hours of vacation leave at the end of the calendar year. Hours over 240 will be forfeited. Part-time employees will be allowed to carry over a pro-rated number of hours (i.e. an employee working 20 hours per week, 50% of an FTE, may carry over 120 hours.) In emergency situations, the City Council may temporarily suspend the maximum number of hours which may be accumulated.

As used below, "Years of Service" includes all time served but does not include time on suspension or unpaid non-medical leaves of absence which exceed one full pay period in duration.

Changes in accrual rates shall be made effective at the beginning of the next payroll period following completion of the specified years of service requirement.

VACATION ACCRUAL SCHEDULE FOR REGULAR FULL-TIME EMPLOYEES

- A. An employee shall be credited with vacation leave starting with the date of employment and accrue with each pay period. The amount of vacation leave available to regular full-time employees shall be earned according to the following schedule, determined by years of service and established at the anniversary date of the first day of employment. Vacation leave may be used only to the extent that it is earned.

Year 1	80 hours
Year 2	88 hours
Year 3	96 hours
Year 4	104 hours
Year 5	112 hours
Year 6	120 hours

Year 7	128 hours
Year 8	136 hours
Year 9	144 hours
Year 10	152 hours
Year 11+	160 hours

Vacation Usage. Vacation leave shall not be used during or prior to the pay period in which the hours are accrued. Employees shall submit written requests to use vacation leave prior to the absence. The City Administrator or Police Chief shall respond within a reasonable period and shall deny the request only to meet job-related organizational needs. Except in emergencies, no employee shall be required to work during the employee's vacation once the vacation request has been approved.

Vacation accrued while on paid leave may be used by the employee with the approval of the City Administrator without returning to work prior to the usage of such accrued leave.

Should an employee become ill or disabled while on vacation, vacation leave shall be changed to sick leave, effective the date of the illness or disability, upon timely notice to the City Administrator and verification by a medical provider.

Vacation Charges. Holidays that occur during vacation periods shall be paid as holidays and not charged as vacation leave.

Chapter 7. SICK LEAVE

Eligibility. All regular full and part-time employees who are scheduled to work 20 or more hours per week and are in active payroll status are eligible to accrue sick leave.

Accruals and Accumulations. A full-time employee shall accrue on a regular basis, sick leave based on an annual allocation of ten (10) days of sick leave at a rate of eight (8) hours per day until 700 hours have been accumulated. Part-time employees scheduled to work at least 20 hours per week shall have his/her sick leave accrual prorated according to the number of hours scheduled to work until 350 hours have been accumulated. An employee shall be credited with sick leave starting with the date of employment and accrue with each pay period. An employee whose sick leave balance falls below the maximum allowable accrued hours shall again accrue sick leave at the appropriate full or part-time base rate until his/her accumulation again reaches the maximum.

Usage. Whenever practicable, an employee shall submit a written request for sick leave in advance of the period of absence. When advance notice is not possible, an employee shall notify the City Administrator or Supervisor by telephone or other means at the earliest opportunity. An employee shall be granted sick leave to the extent of his/her accumulation for the following:

- ◆ illness, injury or disability; or
- ◆ medical, chiropractic, or dental care for the employee, spouse and children; or
- ◆ exposure to contagious disease which endangers the health of other persons; or
- ◆ illness, injury or disability of immediate family members of the employee or spouse for such reasonable periods as the employee's attendance may be necessary; or
- ◆ the employee or spouse for such reasonable periods as the employee's attendance may be necessary; or
- ◆ to arrange for necessary nursing care for members of the immediate family, not to exceed three days.
- ◆ Safety Leave - for the purpose of providing assistance to immediate family members or receiving assistance because of sexual assault, domestic abuse, or stalking. Safety leave for other than employee or employee's child is limited to 160 hours in a 12-month period.

An employee using sick leave may be required to furnish a statement from his/her medical practitioner or a medical practitioner designated by the City Administrator to verify the illness and expected duration of the illness or disability or to approve of time off for the employee's care of a member of his/her immediate family.

Sick leave hours shall not be used during or prior to the pay period in which the hours are accrued. Sick leave accruals earned while on paid leave may be used by the employee without returning to work prior to the usage of accrued sick leave.

Sick Leave Charges. An employee using sick leave shall be charged for only the number of hours that the employee was scheduled to work during the period of sick leave. Sick leave shall not be granted for periods of less than one-half hour except to permit usage of lesser fractions that have been accrued. Holidays that occur during sick leave periods will be paid as holidays and not charged as sick leave.

Chapter 8. LEAVES OF ABSENCE

Application for Leave. An employee shall submit a request for a leave of absence in

writing to the City Administrator as far in advance of the requested absence as is practicable. The request shall state the reason for, and the anticipated duration of, the leave of absence.

Paid Leaves of Absence. Paid leaves of absence shall not exceed the employee's normal work schedule and may be granted as follows:

- ◆ Court appearance leave for appearances before a court or other judicial or quasi-judicial body in response to a subpoena or other direction by proper authority for purposes related to the employee's city job. The employee shall receive regular pay for such appearances or attendances, including necessary travel time, provided that any fee received, exclusive of paid expenses using a personal vehicle, is returned to the city. Any employee who must appear and testify in private litigation, not as an officer of the city but as an individual, shall be required to use vacation leave, compensatory time or leave of absence without pay unless, by mutual consent with the City Administrator, the employee is able to work an equivalent number of hours during the pay period to compensate for the hours lost. Use of this provision shall not entitle an employee to overtime compensation as provided in Chapter 4.
- ◆ Paid jury duty leave for time to serve on a jury is provided for regular full and part-time employees up to a maximum of 15 days per calendar year. During jury duty the employee will be paid the employee's regular base pay. Following completion of jury service, an employee shall reimburse the city for compensation received for jury services. An employee shall be allowed to keep any funds paid by the court for mileage using a personal vehicle and expenses.

Employees shall notify their supervisor as soon as possible after receiving notice to report for jury duty.

An employee who has been excused or released from jury duty during the employee's regular work hours shall report to their supervisor for assignment to duty as soon as possible.

- ◆ Regular full and part-time employees shall be provided paid military leave for reserve training or active service, not to exceed 15 working days (shifts) per calendar year. Employees must give reasonable prior written notice.
- ◆ Voting time leave in accord with M.S. 204C.04 for employees eligible to vote in any state primary or general election or an election to fill the vacancy in the

office of United States Senator, United States Representative, State Senator or State Representative, or a presidential primary or general election provided that the leave is for a period of time long enough to vote during the forenoon of the election day.

- ◆ Emergency leave in the event of a natural or man-made emergency. If the City Administrator, after consultation with the City Council, determines that continued operation would involve a threat to the health or safety of individuals, the City Administrator may grant emergency leave. The length of such leave shall be determined by the City Administrator.
- ◆ Funeral leave with pay shall be extended to regular full and part time employees scheduled to work at least 20 hours per week upon the death of a member of the immediate family of the employee or the employee's spouse for attendance at the funeral or other related demonstrated need. Funeral leave benefits are pro-rated for part-time employees. Any funeral leave for the immediate family beyond one day, up to a maximum of three (3) days, is to be approved by the City Administrator. The City Administrator may grant a funeral leave of one day with pay to the employee upon the death of a member of the non-immediate family of the employee or the employee's spouse. This does not include a family friend, neighbor, etc. Funeral Leave is not for absences to aid bereaved relatives or to attend to the estate of the deceased.

Unpaid Leaves of Absence.

- ◆ School Conference and Activities Leave. Per Minnesota statute, 181.9412, employees may be eligible for a total of 16 hours during any 12-month period to attend school conferences or school related activities related to the employee's child, provided the conferences or school related activities cannot be scheduled during non-work hours. Employees must provide reasonable prior notice of the leave and make a reasonable effort to schedule the leave so as not to disrupt unduly the operations of the city. An employee may choose to substitute accrued vacation or compensatory time for any part of this unpaid leave.
- ◆ Political process leaves in accord with M.S. 202A.135 and 202A.19, subdivision 2, for the purpose of attending a precinct caucus, a meeting of the State central or executive committees of a major political party if the employee is a member of the committee, or any convention of major political party delegates including meetings of official convention committees if the employee is a convention delegate or alternate, provided that the leave is requested ten days prior to the

leave start date.

- ◆ All employees will receive unpaid military leave in accordance with applicable laws.

General Unpaid Leaves of Absence – Discretionary Unpaid leaves of absence may be granted by the City Council upon an employee's request for reasons as follows:

- Medical/Disability leave.
- Leave for personal reasons.

General unpaid leaves of absence, not required by law, are not guaranteed. Requests for such leave of absences will be evaluated based on the specific facts and circumstances along with the employee's service record with the city.

Certification. Medical leaves may require medical certification. The city may request a second medical examination and verification by a physician of the city's choosing. Such examination, if required, will be at the city's expense. The city may require the employee to provide additional information from his or her physician at reasonable intervals.

Pay While on Leave. Leave will generally be granted without pay. However, earned vacation time, compensatory time (and sick leave, if appropriate) will be paid until the balance is exhausted.

Length of General Leave. A general leave may be granted by the City Council for up to 90 days. Under special circumstances, leaves may be extended at the discretion of the City Council an additional 90 days. Requests for leave extensions must be made within 45 days prior to the expiration of the original leave of absence to allow for City Council action.

An employee who returns from a general medical leave will be required to provide a doctor's release that states s/he is medically fit to return to work and can perform the essential functions of the position.

An employee returning from a general leave may be reinstated to his/her former position or a comparable position if one is available. However, the city does not guarantee that a person's job will be held open while on a general leave.

Parenting Leave. Employees who have completed 12 consecutive months of

employment and worked at least 1040 hours during that 12-month period are entitled to up to twelve (12) weeks of unpaid parental leave. Female employees will be afforded pregnancy leave for prenatal care or incapacity due to pregnancy. Parenting leave is provided to natural or adoptive parents in conjunction with the birth or adoption of a child. The leave must begin within 12 months of the birth or adoption of the child. If a child needs hospital care longer than the mother, the 12-month window within which the parent can take leave begins when the child leaves the hospital.

Employees are required to make a written request for parenting leave to the City Administrator at least thirty (30) days before the leave is to begin, if practicable.

Employees taking parenting leave will be continued on the city's insurance policies if the employee was covered prior to the leave. An employee will continue to be responsible for his/her portion of the premiums while on leave and will be responsible for the total premium(s) should the employee elect not to return from leave.

Upon returning from parenting leave, an employee will generally be placed in the same position or a position of equivalent seniority, duties, hours, and pay that s/he had before the leave. Sick pay, vacation time and other benefits will not accrue during parenting leave taken without pay.

Family and Medical Leave. Regular full-time and part-time employees who have been employed by the city for at least 12 months and have worked at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave are entitled to a total of 12 work weeks of unpaid family or medical leave during the applicable 12-month period as determined by the city, plus any additional leave as required by applicable law. FMLA Leaves will be granted for a period of up to twelve weeks in any rolling 12-month period running backward from the date an employee uses FMLA Leave. Leave may be taken for one or more of the following reasons in accordance with applicable law:

1. Birth of the employee's child;
2. Placement of an adopted or foster child with the employee;
3. To care for the employee's immediate family with a serious health condition; and/or
4. A serious health condition that makes the employee unable to perform the functions of the employee's job. A "serious health condition" typically requires either inpatient care or continuing treatment by or under the supervision of a health care provider. Family and medical leave generally is not intended to cover short-

term conditions.

Depending on the type of leave, intermittent or reduced schedule leave may be granted at the discretion of the city or when medically necessary. However, part-time employees are only eligible for a pro rata portion of leave to be used on an intermittent or reduced schedule basis, based on their average hours worked per week. Where an intermittent or reduced schedule leave is foreseeable based on planned medical treatment, the city may, if available, transfer the employee temporarily to an available alternative position for which the employee is qualified and which better accommodates recurring periods of leave than does the employee's regular position, and which has equivalent pay and benefits.

If an employee requests a leave for the serious health condition of the employee or the employee's immediate family, the employee will be required to submit sufficient medical certification. In such a case, the employee must submit the medical certification within 15 days from the date of the request or as soon as practicable under the circumstances.

If the city has reason to doubt the validity of a health care provider's certification, it may require a second opinion at the city's expense. If the opinions of the first and second health care providers differ, the city may require certification from a third health care provider at the city's expense. An employee may also be required to present a certification from a health care provider indicating that the employee is able to return to work.

Employees must give 30 days' written notice of a leave of absence where practicable. Employees are expected to make a reasonable effort to schedule leaves resulting from planned medical treatment so as not to disrupt unduly the operations of the city, subject to the approval of the health care provider.

During the period of a leave permitted under this policy (which does not exceed a total of 12 work weeks in the applicable 12-month period), the city will maintain health insurance under its group health plan under the same conditions coverage would have been provided had the employee not taken the leave. The employee will be responsible for payment of the employee contribution, if applicable, to continue group health insurance coverage during the leave. Failure to make necessary and timely contributions may result in termination of coverage.

Employees returning from a leave permitted under this policy (which does not exceed a total of 12 work weeks in the applicable 12-month period) are eligible for reinstatement in the same or an equivalent position as provided by applicable law. However, the

employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the leave.

The provisions of this Family and Medical Leave Policy are intended to comply with applicable law, including the Family and Medical Leave Act of 1993 ("FMLA") and applicable regulations.

Return From Leave. An employee returning from a leave of absence of two months or more shall notify the City Administrator at least two weeks prior to the intended date of return. An employee on a general leave of absence must return to work following the expiration of the leave. Failure to return on the agreed upon date will be considered as a voluntary resignation.

Termination of Leaves. An employee may terminate his/her leave of absence prior to the previously agreed upon date of expiration of the leave with the approval of the City Administrator. Leaves of absence or extensions of leaves which are subject to the discretionary authority of the City Council may be canceled by the City Council upon reasonable notice to the employee. Such notice shall ordinarily be in writing except in case of emergency.

Chapter 9: Leave Donation

Leave Donation Policy. All regular employees of the city who are eligible to accrue sick and/or vacation leave, will be allowed to voluntarily donate a portion of accrued regular sick and/or vacation leave to fellow employees experiencing a debilitating illness or injury suffered by the employee or the employee's immediate family members as described on the Usage section of the Sick Leave Policy. Donated hours will be transferred (deducted) from and added to eligible recipients Sick Leave balance upon written request and subject to approval by the City Administrator. When such a need arises, the employee in need of additional sick leave or their Supervisor shall contact the City Administrator. Upon approval of a request, a posting of such need will be sent to all departments. Employees who choose to make a donation will submit an "Accrued Leave Donation Authorization Form" to the City Administrator for approval.

Administration of Donated Leave

- ◆ An employee is only eligible to receive donated leave for normal regular work hours lost due to a debilitating illness or injury as described above.

- ◆ No employee will be eligible to receive donated leave if they have already been compensated for 2080 hours or more in the current calendar year regardless of the type of hours paid.
- ◆ An employee will be eligible to receive donated leave only after the employee's own accrued sick, compensatory and vacation leave have been completely exhausted.
- ◆ No single employee may donate more than 16 hours of leave for any single debilitating illness or injury without approval from the City Administrator.
- ◆ Donated hours must be used in the same manner as is currently established by the Sick Leave Policy.
- ◆ Any unused donated leave hours will be returned to the donating employee in increments of not less than 1 hour.
- ◆ Donated leave will not be used for any severance pay, or paid out to an employee in the form of cash, or used in any manner other than what is stated in this section of the policy.
- ◆ The value of the donated leave will be paid according to the salary or wages of the recipient, regardless of the salary or wage of the donor.

Chapter 10. EMPLOYMENT

Reemployment of Former Employees: The City of Breezy Point will consider past employees for rehire if they meet minimum position requirements and previously resigned from the city on a voluntary basis or lost their position due to no fault of their own. Normally, former employees will not be considered for rehire if they were terminated for conduct or performance reasons or left the job without giving appropriate notice. Previous employment with the city does not guarantee future employment; selection for open positions will be based on individual merit and qualifications.

Employment of Relatives. Relatives of present employees will be hired on the same basis as other applicants; that is on the basis of their qualifications. No Immediate or Non-Immediate Family member will be permitted to work directly for another, or in his or her chain of command.

Pregnancy Accommodation. A pregnant employee is entitled to the following upon request: more frequent restroom, food, and water breaks; seating, and limits on lifting over 20 pounds. The employer will consider reasonable accommodation for pregnant employee, if requested under the advice of her licensed care provider. A less stressful or hazardous position may be considered unless the employer demonstrates that the accommodation would impose an undue hardship. The employer is not required to create a new or additional position or to discharge or transfer other employees to accommodate the employee.

Nursing Mother Accommodation. Nursing mothers are afforded reasonable unpaid break times to express breast milk in a non-bathroom private area with an electrical outlet.

Chapter 11. PROMOTION INTRODUCTORY PERIOD

An employee who is promoted shall serve an introductory period of no less than 3 months, to determine his or her suitability for the new position. The introductory period can be lengthened as necessary. Such introductory status shall not affect the employee's use of vacation and sick leave.

Chapter 12: PERSONNEL FILES

In accordance with the Minnesota Data Practices Act, personnel records shall be open for inspection and review by the employee during office hours, in accordance with such procedures as the City Administrator may prescribe. Review of such records shall be at reasonable times as determined by the City Administrator and under the direct supervision of a city representative. The City Administrator shall have records maintained as necessary for the proper administration of the personnel system.

Chapter 13. EMPLOYEE DEVELOPMENT AND CAREER ADVANCEMENT

Job Descriptions. A job description outlines the essential duties and responsibilities of all jobs for the city. The job description is intended to be a guideline, and it is not intended to be all inclusive of duties and responsibilities for a particular job. This job description outlines the essential duties and responsibilities of a job as it exists at the present time. Due to changes in job content and department organization, job descriptions may need revision in the future. A copy of a job description will be given to each employee by his or her supervisor when an employee begins work on an assigned job. The supervisor shall use this job description in training, annual performance appraisals, transfers, and promotions. Generally, job descriptions will be reviewed on an annual basis or otherwise as determined by the City Administrator.

Performance Appraisal. The city values each employee's contribution and recognizes it is important to inform employees about how well they are performing or in certain cases not performing their job. Accordingly, the city will conduct formal performance appraisals of employees at periodic intervals.

Performance appraisals provide an opportunity for employees to make sure they know what is expected of them, and to discuss how they are doing in meeting those expectations.

Employees are encouraged to talk to their supervisor at any time if they have questions about performance or performance expectations, without waiting for a scheduled performance appraisal.

Such performance reviews will provide an opportunity for work planning and the establishment of personal growth objectives. The review discussion provides the groundwork for future discussions throughout the review period. Supervisors will appropriately address performance issues as they occur rather than waiting for the formal review discussion.

The City Administrator will be reviewed periodically and at least annually by the City Council.

Individual Development Planning. As part of the performance appraisal, the employee shall be notified of any gaps between current levels of performance and those required for satisfactory performance. The employee shall also be given an opportunity to explore with the City Administrator or Supervisor any perceived developmental needs or interests to improve performance in the current job or to expand capability to achieve higher levels of responsibility within the agency and city service.

Assigned Training. Training and education may be necessary to meet the goals of the city to have employees function appropriately in their positions and to prepare employees to accept expanded responsibilities. Employees who are required by the city to participate in training programs shall be released from their work assignments and shall be paid for the time spent in training and/or other time as required by the Fair Labor Standards Act. With the prior approval of the City Administrator or Supervisor, an employee required to attend continuing education courses in order to maintain professional licensure necessary to his/her city employment shall be released from work to attend courses determined to be relevant to the job.

Non-assigned Training. A regular full or part-time employee may request to attend a specific training activity. If, in the judgment of the City Administrator or Police Chief, the requested course, workshop, or seminar will better prepare an employee to perform his/her current or projected responsibilities and if staffing needs and budgetary resources permit, the City Administrator or Police Chief may approve the employee's request for training and provide released time and/or reimbursement. An employee must successfully complete the training to be eligible for reimbursement. Successful completion means the employee will present a certificate of completion or in the case of an educational course, receive a grade of "C" or higher. Employees engaged in this type of training shall not be eligible for additional work time compensation.

Membership in Professional Organizations. In each fiscal year, the City Administrator may authorize payment for a regular full or part-time employee the full or partial costs of membership dues and conference fees paid to a professional organization related to the employee's job provided that the organization offering the membership does not directly influence agency policies, exist primarily for social reasons, have as its primary purpose the advancement of individual employee interests, or restrict membership on the basis of sex, race, religion or any other protected class status. The employee may attend meetings and seminars of a professional organization during work hours if the amount of time required is reasonable, the City Administrator approves such attendance as related to the work assignment, and staffing requirements permit. The employee may hold office in a professional organization if s/he receives no stipend or direct payment other than expense reimbursement from the organization.

Subscriptions. The City Administrator may authorize payment for the cost of a regular full or part-time employee's individual subscriptions to magazines or other professional publications provided that the publications meet organizational needs.

Chapter 14. LAYOFF and RECALL

Layoff. Any employee may be laid off because of elimination of the employee's position, shortage of work or funding, a management-imposed reduction in a full-time employee's normal work hours which continues longer than two consecutive weeks, ineligibility for appointment to a reclassified position, or other reasons outside the employee's control. Any employee who has voluntarily requested and been authorized to reduce his/her hours shall not be considered to have been laid off.

Recall. The city will make every attempt to recall the most productive employees if the workload resumes; however, work performance and attendance are factors in considering the priority for individuals to be recalled.

Chapter 15. DISCIPLINARY ACTION

The city requires standards of conduct and behavior that will best ensure that the public is provided with efficient and effective service. It is the city's expectation that employees will perform their jobs satisfactorily, and comply with city rules and policies. However, this may not always happen. Normally, supervisors would like to work with employees in communicating and attempting to correct employee work-related problems.

However, when work performance is unsatisfactory or when an employee violates the rules or regulations of the city, appropriate disciplinary action may be taken, up to and including termination of employment, without prior warning or notice.

Forms of Discipline. Disciplinary action may take many forms including, but not limited to, oral warnings, written warnings, suspension and termination. However, the city will take whatever disciplinary action it determines appropriate in response to the circumstances of any given situation, and termination may result from the first incident if the city believes that this action is warranted under the circumstances.

Oral warning. In incidents where an employee is not meeting the city's expectations for conduct or work performance, the supervisor should meet with the employee to discuss the matter and inform the employee of the issue as well as the action that is necessary to correct the problem. The employee should also be given an opportunity to respond to the disciplinary action verbally and in writing. A written, dated and signed (by both the supervisor and employee) record of this conversation will be placed in the personnel file.

Written warning. Employees may receive a written warning when there have been repeated incidents, or when the supervisor believes that the nature of the first incident is serious enough to warrant a written warning. The supervisor should meet with the employee to discuss the matter and inform the employee of the issue as well as the action that is necessary to correct the problem. The employee should also be given an opportunity to respond to the disciplinary action verbally and in writing. The warning should be signed by the supervisor and the employee. The warning will then be placed in the employee's personnel file.

Suspension with or without pay. A suspension is generally used as a disciplinary measure after an employee fails to correct performance/conduct after repeated incidents and warnings or when the supervisor believes that the nature of the first incident is serious enough to warrant a suspension with or without pay. Investigatory

suspensions may also be used when time is needed to further assess a situation. An employee on unpaid investigatory suspension shall continue to receive city paid insurance benefits as provided in this Plan.

Discharge. Termination of employment normally will occur when the city has tried to assist the employee in correcting his/her performance or conduct without the desired results. However, when there is an incident that the City Administrator, with concurrence of the City Council, believes is so severe in nature that termination is warranted, termination may occur without prior warning.

Procedure for Discharge of Employee With Regular Status. Discharge requires a written notice, no later than one day prior to effective date of discharge. The notice of discharge shall include the following:

1. Nature of the disciplinary action;
2. Specific reasons for the action;
3. Effective date of the action;
4. Statement of the employee's right to request an opportunity to hear an explanation of the evidence against him/her, and present his/her side of the story while still in pay status, and notice that this right expires at the end of the next scheduled day of work after the notice of discharge is delivered unless the employee and the city agree otherwise; if the employee was not in pay status at the time of the notice, for reasons other than an investigatory suspension, the requirement to be in pay status does not apply;
5. Statement of the employee's right to reply in writing.

Authority. The employee's immediate supervisor has the authority to take action in the form of oral and written warnings and to effectively recommend suspension without pay, or discharge.

After conferring with the City Administrator the employee's immediate supervisor may suspend an employee **with** pay pending completion of an investigation which may result in disciplinary action.

The City Administrator may recommend to the City Council termination of an employee. The city reserves the right to terminate employment at any time, with or without notice for any reason not prohibited by law.

The City of Breezy Point retains the right to take whatever corrective action it determines appropriate in response to the circumstances of any given situation. Termination may result from the first incident if the City believes that this action is

warranted under the circumstances. Further, nothing in this policy changes an employee's rights to terminate his/her employment with the City of Breezy Point at any time, for any or no reason, nor does it modify the City's right to terminate any employee's employment at any time, with or without notice, for any reason not prohibited by law.

Chapter 16: EMPLOYMENT SEPARATION

Policy Statement: It is the city's policy that all instances of separation of employment, whether initiated by the employee or the city, will be conducted with due regard for the rights and obligations of both parties, and in accordance with all applicable Federal, state and local laws.

Veterans Preference. The city will comply with laws regulating the termination of employees who have claimed Veterans Preference. If a veteran is to be terminated, the city will notify the veteran that he/she has a right to request a hearing in writing within 60 days of the termination. The veteran loses his/her right to a hearing if it is not requested in writing within 60 days of the termination. If a veteran is removed from employment prior to requesting a hearing, the veteran will continue to be paid until the hearing is completed and a determination made on the status of employment.

Resignations/Retirement. Any employee wishing to leave employment with the city in good standing shall submit written notice to the City Administrator a *minimum* of ten (10) working days before leaving stating the effective date of his/her resignation. Failure to comply with this procedure may be considered cause for denying such employee future employment with the city and result in the forfeiture of vacation and severance payments if authorized.

Vacation Leave Upon Separation. An employee who separates from city service in good standing shall be paid at the employee's current rate of pay, for all vacation leave credited at the time of separation. Vacation leave may not be used alone or in combination with unpaid leave on separation from the city service to extend insurance coverage.

Sick Leave Upon Separation. An eligible employee who retires after working the minimum time period as outlined in the City's current Health Care Savings Plan (HCSP) contract shall be paid the employee's current rate of pay for accumulated but unused sick leave balance at the time of separation not to exceed 240 hours. Employees who separate employment from the City but do not retire as defined by the Minnesota State Retirement System shall not be paid for any accumulated but unused sick leave.

Termination of Seasonal/Temporary Employees, Contractual Individuals or Student Interns. Any person working in a seasonal/temporary, contractual or student intern appointment may be terminated at any time by the City Council and shall have no further rights to city employment.

Absence Without Notice. Any unauthorized absence from duty is an absence without notice and shall be without pay. Any employee who is absent for three consecutive days without notifying the City Administrator (or other management representative if the City Administrator is not available) shall be considered to have voluntarily terminated his/her employment.

Chapter 17: EMPLOYEE GROUP INSURANCE BENEFITS/ELIGIBILITY

The city currently provides insurance protection to employees through a combination of employer, employee/employer shared cost, and employee-paid plans. These plans are subject to modification or withdrawal at any time at the city's discretion. Details of the plans and required Summary Plan Descriptions, forms and procedures are available from the City Administrator. The summary plan documents will be the final determinant of eligibility and coverage.

Health Insurance. The city currently offers medical coverage to eligible employees and their dependents, under a cost share structure.

Eligibility. Regular full or part-time employees meeting the work hours requirement are eligible to participate in the city's group insurance benefits immediately upon their start date. (Subject to various waiting periods and plan provisions.) Group insurance benefits will be provided to each employment status as follows:

Contractual: Receive no employment benefits.

Interns: Receive no employment benefits.

Regular Full-time: All benefits are currently made available to regular full-time employees as described in the personnel plan. (Subject to the various waiting periods and plan provisions.)

Regular Part-time: Regular part-time employees scheduled to work at least 32 hours but less than 40 hours are eligible for group insurance benefits. Part-time employees scheduled to work less than 32 hours per week are not eligible for group insurance

benefits.

Seasonal/Temporary Employees: Receive no employment benefits.

Health Insurance Alternative. For eligible employees not choosing city sponsored Health Insurance, the city will provide \$360 per month. Said payment will only be authorized if the employee has health insurance coverage from another provider and provides proof of coverage.

Flexible Spending Account & Health Savings Account (HSA) The city makes available to employee's participation in a flexible spending account and/or health savings account (HSA) which allows the pre-tax deduction of money from payroll for qualified expenses, dependent on the type of insurance the City offers or employee selects.

Basic Life Insurance. The city currently provides life insurance coverage in a fixed amount at no cost to the employee.

Dental Insurance. The city currently offers dental insurance to employees and their dependents, under a cost share structure.

The city reserves the right to change benefit providers and/or eligibility and coverage provisions and to delete benefits at any time, in its sole discretion.

Continuation of Coverage (COBRA) and Certificate of Portability (HIPAA). Federal and state laws provide some opportunities for employees to continue coverage in the group health insurance and life insurance plans, at their own expense, after they leave their employment with the city. Employees who are eligible for insurance continuation at the time their employment terminates will be provided specific information about availability and cost. When coverage under the group health insurance plan ceases, employees will also be provided with a Certificate of Insurance Portability as required by federal law (HIPAA). This certificate may help eliminate or reduce the waiting periods for coverage of preexisting conditions under other insurance plans.

Employee Paid Benefits

Supplemental Life Insurance/Employee, Spouse and Dependent. Employees may purchase additional life insurance by completing an enrollment application which may include a health history form.

Short-term disability. Employees may purchase, through the city, short-term disability insurance. Details of the plan can be obtained from the City Administrator.

Chapter 18. SALARY ADMINISTRATION

Salary Ranges. Each position is assigned to a specific job class/pay grade at the time a position is established. If no appropriate class exists, a new one will be created. New classes will be evaluated and assigned appropriate points. Based on points and comparison to other jobs within the city, a range will be established.

Salary Rates and Limits. The salary rate for each employee shall be set by the City Council within the limits of the salary range to which the employee's class is assigned.

Compensation Plan. Non-union employees are compensated based on a compensation plan. Under the plan, salary adjustments fall into 3 general categories.

- ◆ A cost of living increase (COLA) is given at the discretion of the council. It is generally provided to address the higher costs of goods and services over a period of time. These are across the board increases and result in a corresponding adjustment to the salary schedule.
- ◆ A wage (step) increase is given to represent a threshold being met. Steps are generally based on longevity but are also to recognize greater knowledge and efficiency in fulfilling the requirements of the position. For a step to be given the employee must show a positive performance review and good work history in terms of performance and goal obtainment, since the previous adjustment. In the event these criteria are not met, a step would not be granted at that time with reconsideration upon a subsequent review. This policy provides for step considerations every other year to be given at the employee's anniversary date. If the city experiences extreme fiscal stress, the granting of steps may be suspended.
- ◆ Periodically the schedule needs to be adjusted. These adjustment needs are caused by market factors in one or more job category or can be the result of percentage increases tipping the higher wage rates too high over a period of time. Other factors may also influence the salary schedule but regardless of the contributing factor, a schedule adjustment is a tool used to bring wage rates into compliance with existing conditions. These adjustments can be accomplished at any time and at the discretion of the city.

Change in Job Descriptions or Promotions. As job descriptions change, with added or reduced responsibilities, a review will be accomplished under pay equity to determine if a salary grade change has occurred. If a grade change is warranted, the employee will be moved to the appropriate grade in the pay plan. If the change results in a higher

grade, the employee will be slotted into the wage rate that is the next higher wage rate closest to current pay. If the grade change results in a lowering of the pay grade, the employee will be slotted into the wage rate that is consistent with the grade and the work to be accomplished.

Changes in wage rates (steps). Employees' performance will be reviewed on or about their anniversary date of employment on an annual basis. A step increase in accordance with the intervals as specified in the pay plan is available based on longevity and meeting satisfactory performance standards. The new wage rate if given will be applied to the next full pay period following the anniversary date.

Compensation plan subject to employer limitations. As a matter of policy it is the goal of the city to maintain the employee compensation plan. The plan is subject to limitations posed by extreme fiscal stress of the city. The suspension of this policy will not be accomplished lightly as employees have a vested interest in their compensation. Any suspension of the compensation plan will result in an across the board suspension for all non-union employees. The suspension action shall be accomplished by resolution of the City Council indicating the reasons for such action. Said action would be accompanied by a request to meet with labor unions associated with the city to discuss the possibility of concessions to address the situation.

Wage Disclosure Protections. An employee may not be restrained from discussing or disclosing wages. The employer may not retaliate against an employee for asserting their right to discuss their wage or another employee's wage which has been disclosed voluntarily.

Chapter 19. EXPENSE REIMBURSEMENT

General. The Administrator may authorize payment of travel and other expenses and reimbursement of special expenses for regular full and part-time employees scheduled to work at least 20 hours per week in accord with the provisions of this Chapter for the effective conduct of the city's business.

Privately-Owned Vehicles. An employee shall be reimbursed for the use of privately owned vehicles under the situations as provided for from time to time by the City Council and at the rates utilized by the IRS.

Other Travel Expenses. Upon approval of the City Administrator, employees in travel status may be reimbursed for expenses in the amounts actually incurred and subject to reasonableness of expense. All business-related expenses must be substantiated by

receipts, cancelled checks, or other documentation.

Chapter 20. EMPLOYEE SAFETY

Policy: The city seeks to provide a safe working environment for all employees and the public. To support this intent, the city will aim to comply with all applicable federal, state and local health and safety regulations.

Employee Responsibility. All employees share in the responsibility to make and keep a safe working environment at the city. All employees are expected to comply with health and safety requirements, whether established by law or city policy, and to be familiar with safety policies and practices for their work areas and work responsibilities. Employees are also responsible for alerting their supervisor or some other member of management about any unsafe condition or practices in the workplace.

Violations of the city's safety rules, regulations, and/or deliberate or careless conduct endangering the safety of others may result in disciplinary action up to and including termination of employment.

Protective Equipment. The city shall provide and maintain protective equipment or clothing, including safety glasses, safety helmets, and safety vests whenever such equipment is required as a condition of employment.

Medical Examinations. If required by the city as part of general health and safety programs or to comply with State and Federal health and safety requirements, medical examinations shall be provided at no cost to the employee.

Chapter 21. WORKERS' COMPENSATION; INJURED ON DUTY PAY, JOB REQUIREMENTS

Work-Related Injuries. An employee who is injured or who is involved in an accident during the course of his/her employment shall report the accident to his/her immediate supervisor as soon as possible after the injury or accident occurs. A first report of injury form should be filled-out by any employee injured during work regardless of the severity of the injury. Forms can be obtained through the employee's supervisor.

Job-Related Injury Compensation. An employee incurring an on-the-job injury shall be paid his/her regular rate of pay for the remainder of the scheduled work day without deduction from vacation or sick leave accruals. The following shall apply to an employee who incurs a compensable illness or injury and receives workers'

compensation benefits.

- ◆ The employee retains the workers' compensation benefit check and takes an unpaid workers' compensation leave during the time s/he is unable to work.
- ◆ An employee shall return from workers' compensation leave upon appropriate release from workers' compensation status provided the employee is able to perform the work satisfactorily and safely as determined by competent medical authority. A return to work notice is required to be provided to the employer.

Vacation and Sick Leave Accruals. An employee receiving workers' compensation benefits shall accrue vacation and sick leave for the time in workers' compensation status. An employee on unpaid workers' compensation leave does not accrue vacation or sick leave.

Insurance. For employees who are off the city payroll due to a work-related injury or disability, group benefits provided under this Plan shall continue as long as the employee is receiving workers' compensation payments or is using disability leave up to a maximum of one year.

Unable to Perform Job Requirements. When an employee is unable to perform the essential requirements of the employee's job due to a temporary disability, the employee will notify the City Administrator or Department Head in writing as to the nature and extent of the disability and the reason why the employee is unable to perform the essential functions, duties, and requirements of the position. This notice must be accompanied by a physician's report containing a diagnosis, current treatment, and any work restrictions related to the temporary disability. Said notice shall also include the expected time frame regarding return to work full time with no restrictions, meeting all essential requirements and functions of the city's position description along with a written request for light duty.

The city may require an independent evaluation conducted by a physician selected by the city to verify the diagnosis, current treatment, expected length of temporary disability, and work restrictions.

Return to Work/Light Duty. It is the commitment of the city to encourage the return to work of employees in allowing the city to benefit from the employees' knowledge, skills and abilities while temporarily limited by illness or injury. The city may establish guidelines for temporary assignment of work to temporarily disabled employees who are medically unable to perform their regular work duties. The City of Breezy Point's

Light Duty Program is for short-term, temporary disability-type purposes. The City Administrator or Police Chief reserves the right to determine when and if light duty work will be assigned. Although this policy is handled on a case-by-case basis, light duty is recommended to last no longer than six months. This policy does not guarantee assignment to light duty.

The circumstances of each disabled employee performing light duty work will be reviewed regularly.

Chapter 22: EMPLOYEE RESPONSIBILITY

General Policy. For the effective administration and implementation of city policy, and to serve the citizens, each individual employee must cooperate to the fullest with all fellow employees and the public. Public employees have a high degree of visibility to the general public, and therefore, must exercise particular care and caution to ensure that all work undertaken is accomplished expediently, professionally and with efficiency. To achieve this goal, employees must adhere to established rules and procedures and follow the instructions of their supervisors.

Therefore, employees are required to:

- ◆ Perform their assigned duties to the best of their ability at all times and continually strive to improve their performance;
- ◆ Provide prompt, accurate and courteous service to the public at all times;
- ◆ Read, understand and comply with the rules and regulations as set forth in this personnel plan as well as those of their department; and
- ◆ Conduct themselves with decorum and respond to inquiries and information requests with patience and every possible courtesy.

Attendance and Tardiness. The city's ability to meet the public's needs is dependent on employees being at work every day as scheduled and completing work in a timely fashion. Therefore, it is important for all employees to be at work when scheduled (or as required) and be at their workstation ready to work at the appointed time.

Employees need to contact their immediate supervisor every day they are absent. Absence or tardiness that the city considers excessive, or which appears to occur with some pattern, may result in disciplinary action up to and including termination of employment.

Employee Grooming and Dress Code. It is the policy of the city that each employee shall be dressed and groomed appropriate to their specific work situation. Employees,

in general, are expected to present themselves in a professional manner. A well-groomed employee conveys an impression of efficiency to the public. This enhances the public's confidence that their business with the city will be handled efficiently.

The city reserves the right to determine appropriate work attire and appearance.

Confidentiality. Employees have access to confidential and/or sensitive information only because of their employment with the city and because they need the information to do their job. Employees are expected to respect the confidentiality and sensitive nature of such information and use it only for the required business purposes. This includes data that is not yet considered to be public information.

No confidential or sensitive city information is to be communicated to other employees, unless they have a business need to know such information, or to persons outside of the city without specific authorization of the City Administrator.

Employees are also responsible for assuring the security of information to which they have access. Be aware of information left on desks, including computer printouts and information displayed on video display screens. Employees should log off of their computers if away from their desk for an extended period of time.

Policy Change Requests. All employees wanting policy changes for individual or group benefits, wages go directly to the City Administrator/Clerk in writing. The Administrator/Clerk, within ten calendar days, will notify employee in writing if the request will proceed.

Conflict of Interest. It is impossible to write a policy statement that will cover every conceivable conflict of interest. In general, employees are expected to avoid placing themselves in a position where others may seek to take advantage of their employment relationship with the city or to obtain information or preferential treatment in their dealings with the city. Specifically, it is a conflict of interest:

- ◆ For an employee to have any other interest in or relationship with an outside organization or individual having business dealings with the city if this interest or relationship might tend to impair the ability of the employee to serve the best interests of the city;
- ◆ For an employee to do business with a relative, or a company with which a relative is associated, on behalf of the city unless the facts are disclosed and the City Administrator approves the business dealings;

- ♦ For an employee to accept a loan, gift or favor of more than a nominal value from a source having a business relationship with the city. Under no circumstance shall an employee accept any loan, gift or favor, regardless of the amount, when it is granted or accepted with the expectation of granting a favor, or better treatment than accorded other persons.

Any potential conflict of interest must be disclosed to the City Administrator. Failure to do so may result in disciplinary action up to and including termination of employment.

Identification of Employment: It shall be the policy of the city to provide all city employees an identification badge. Badges are provided to ensure that city employees, given their on-going contact with people in the community, can be readily identified as city employees. The badge is a required part of the employees' dress attire unless safety concerns are raised in wearing the badge or job necessity dictates that the employee is to not identify themselves as determined by their Supervisor. If an employee does not physically have the badge on his or her person, it shall be within close enough proximity to allow the employee to identify him or herself upon request.

Chapter 23: WORK RULES

Work Rule Offenses: It is the city's policy to establish rules of conduct and standards of behavior in order to protect the health and safety of all employees and the public, to maintain an effective and productive flow of work, and to protect the city's property. In addition to other misconduct provisions stated in this plan, the following conduct is prohibited:

1. Gross neglect of duty.
2. Insubordination, which is the refusal to comply with the supervisor's instructions.
3. Misconduct or conduct unbecoming a city employee.
4. Intentional falsification of applications, personnel records, time reports or other city records or reports.
5. Indulging in offensive conduct or using offensive language toward the public, or in public, or toward city officials, supervisors or other employees.
6. Carelessness or negligence with the monies or the property of the city.
7. Theft or intentional destruction of city property or another employee's property.
8. Sleeping or inattention on the job.
9. Intoxication, or being under the influence of intoxicants, drugs or narcotics while on duty. Being under the influence of alcohol or drugs or of use,

- possession, manufacture, distribution or dispensation of alcohol or drugs on the city's premises or property or while on the city's business.
10. Inducing or attempting to induce any employee in the service of the city to commit an unlawful act or to act in violation of any lawful departmental or official regulation or order.
 11. Soliciting political contributions from city employees, and engaging in political activities on or with city property or on city time.
 12. Possession of a weapon while on city property, a vehicle or while on city business except:
 - ◆ In carrying out the duties of the position.
 - ◆ Or the keeping of weapons in an employee's motor vehicle. Guns shall be unloaded and cased.
 13. Horseplay - actions adversely affecting safety of normal operations of the department or other employees.
 14. Inattentiveness to work, failing to start work at designated time, abuse of break or meal periods, or quitting work before proper time.
 15. Smoking in posted or unauthorized areas.
 16. Abusive, threatening or coercive treatment of another employee or the public on employer's time or premises.
 17. Failure to fulfill employee responsibilities as listed in job duties.
 18. Vending, soliciting or collecting contributions on the employee's time or premises.
 19. Inappropriate dress for employee's work duties.
 20. Misusing city communication systems including telephones, cell phones, Internet, e-mail and computers, etc.
 21. Any other action or behavior that the city determines is detrimental to the efficient and/or economical operation of the city.

This list is not all inclusive. It may be changed at any time and additional prohibited behaviors may be added. An employee may be subject to immediate disciplinary action, without prior warning, up to and including termination for any of the above work rule offenses.

Chapter 24. WORKPLACE VIOLENCE

Purpose. The purpose of this policy is to set forth the City of Breezy Point's policy on workplace violence and to outline the actions that must be taken if a threat or incident of violence occurs. This policy applies to all employees, elected officials, and volunteers of the city and to all locations in which the city does business. If there is a conflict between this policy and any state, local or federal law, such law will govern.

Policy Statement. The City of Breezy Point is concerned about and committed to the safety of all employees and the public and will strive to maintain a workplace that is free of violent behavior. The city will not tolerate any employee's acts or threats of violence. Violence includes, but is not limited to, threatening or hostile behaviors, verbal or written threats of violence or physical assault against any person or employee property.

In conjunction with this commitment, the city will take prompt remedial action if an employee is found to have engaged in violent behavior. Disciplinary action may include, but is not limited to, written warnings, suspension or termination of employment. In addition, appropriate action will also be taken if a member of the public engages in violent behavior.

Employee Responsibilities. All employees are expected to comply with this policy and assist the city in maintaining a safe working environment. Employees must immediately report any incident of violence to their immediate supervisor or the City Administrator. This includes situations where an employee observes or otherwise has knowledge of a violation of this policy. No individual shall be retaliated against for making a good faith report of behavior contrary to this policy.

Reporting Procedures. An employee who encounters violent behavior that may be a serious threat to his/her well-being should call 911. Employees are also required to report any incident of violence to the City Administrator for further investigation. Failure to report such incidents may result in disciplinary action.

If there is any type of evidence that would be helpful in an investigation, it must be maintained. Employees who witness violent situations will be required to complete a detailed description of the event and participate in an interview.

Consequences. Disciplinary action in response to a situation in which an employee is violent may include, but not be limited to, written warnings, suspension or termination. The city will take whatever disciplinary action it determines appropriate in response to the circumstances of any given situation.

If an employee engages in behavior that endangers another person's well-being, the employee will be immediately suspended pending further investigation. Appropriate legal action may also be pursued.

Chapter 25: HARASSMENT AND OFFENSIVE BEHAVIOR

Policy Statement. The City of Breezy Point is committed to providing a workplace that is free of discrimination, illegal harassment and offensive behavior. In accordance with that commitment, the city will not tolerate harassment in the workplace based on race, color, religion, national origin, sex, age, disability, marital status, creed, sexual orientation, status with regard to public assistance, or membership, activity in a local commission or any other characteristic protected by applicable local, state or federal law.

Applicability: This policy applies to all city officials, employees, volunteers, interns, applicants for employment, and contract workers, as well as customers, suppliers, vendors or any other person associated with the City of Breezy Point. City employees shall participate periodically as needed in educational programs concerning legal compliance and workplace applications.

Definitions. Harassment includes, but is not limited to, offensive, abusive or degrading comments or other verbal behavior, as well as written or pictorial materials. It also includes behavior that is personally offensive, impairs morale and interferes with work effectiveness.

Sexual harassment in the workplace is specifically prohibited. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact and other verbal or physical conduct or communication of a sexual nature where:

- ◆ submission to the conduct or communication is made, either explicitly or implicitly, a term or condition of employment;
- ◆ submission to or rejection of the conduct or communication by an individual is used as a factor in decisions impacting that individual's employment;
- ◆ conduct or communication with the purpose or effect of substantially interfering with an individual's employment or creating a hostile, intimidating or offensive work environment.

Examples of behavior that could be sexual harassment include, but are not limited to:

- ◆ gender based stereotyping
- ◆ sexual flirtation, or unnecessary touching, patting, pinching;
- ◆ sexual advances, propositions or requests for sexual favors;
- ◆ verbal abuse of a sexual nature;

- ♦ graphic or suggestive comments about an individual's dress, body or sexual activities;
- ♦ using sexually degrading words to describe an individual;
- ♦ displaying, in the workplace, sexually suggestive objects or pictures;
- ♦ sexually explicit or offensive jokes;
- ♦ physical assault.

Sexual harassment includes unwelcome sexual or gender based behavior by either males or females toward either males or females.

No individual will be denied nor receive special employment opportunities based on tolerating or rejecting sexual advances or other conduct of a sexual nature contrary to this policy.

Employee Responsibility. Every employee of the City of Breezy Point is to support this commitment to a workplace free from harassment and offensive behavior by conducting him/herself in a manner that is consistent with the intent and spirit of this policy.

Reporting Procedure. Any individual who believes s/he has experienced or observed hostile or offensive behavior contrary to this policy is encouraged, but not required to make it clear to the offender that such behavior is offensive and unwelcome, and request that it stop. It is not necessary that the offender be directly confronted if the employee does not feel comfortable doing so. However the employee is expected to report that information to the City Administrator or Mayor. In the event that the alleged harasser is the City Administrator the employee should contact the Mayor. If the alleged is an elected or appointed member of the City Council or a committee, the employee should contact the City Administrator. If the alleged is the City Administrator and the Mayor, the employee must contact the Acting Mayor. Once the situation is understood, the contact person should contact the City Attorney.

All such reports of action contrary to this policy will be taken seriously and investigated promptly, thoroughly and impartially and in as confidential a manner as possible. All employees are expected to cooperate with any investigation of potential hostile or offensive behavior. Failure to do so may result in corrective action up to and including termination of employment. Information provided by employees in the course of an investigation will be treated as discreetly as possible. However, confidentiality cannot be guaranteed.

Individuals found to have violated the city's harassment/offensive behavior policy will be subject to disciplinary action, up to and including termination of employment. No

individual shall be retaliated against for making a good faith report of behavior contrary to this policy.

Chapter 26: USE OF CITY PROPERTY

General Statement. City employees will be provided with various city property and equipment that they need to perform their job, including cellular telephones, pagers and computers. Employees are responsible for using such property and equipment for its intended business purposes. Employees may not use city owned equipment and supplies for purposes other than in the conduct of official city business.

City Vehicles: Certain police employees, because of the nature of their job, are provided with vehicles that are kept at the employee's residence while off duty. Personal use of city vehicles is prohibited. Use of city vehicles is for official business only.

Employees driving city vehicles for city business must have a valid driver's license. Employees who drive city vehicles shall comply with all traffic laws. Employees are responsible for any driving violations/fines that result from their driving a city vehicle. All driving violations must be reported to the immediate supervisor.

Bulletin Boards. The city maintains bulletin boards to post official notices, job openings and other important information. Posting of literature by employees on any city bulletin board that is reserved for this purpose is prohibited.

Electronic Communications. The city provides electronic mail (e-mail) for the primary purpose of business correspondence to facilitate efficient communication. By using the city's electronic and technological equipment, an employee is voluntarily consenting to being monitored, and voluntarily authorizing the city to inspect, monitor, and access all information or communications he/she has made with that equipment. The city must reserve the right to monitor and access any and all communications made through its equipment, and the contents of any city computer, as needed for compliance with policies and for any other business reason. E-mail is not a private communication system. Improper use of the e-mail system could expose employees to personal liability as well as disciplinary action. E-mail is not to be used to send jokes or other comments that may be discriminatory, harassing or offensive to others, or to send material that defames an individual, company, business, municipality etc. It is important to note that e-mail is discoverable as evidence in legal proceedings. Employees should be aware that even though a message may be deleted from the e-mail system, a record of it may remain on the computer system.

Internet access is provided to those who need it for their job duties. The city recognizes that some personal use of city owned computers and related equipment has and will occur. Reasonable use of city email and internet for personal reasons is allowable provided it doesn't interfere with normal work requirements. This is recognized as a privilege much like the ability to have personal phone calls during work hours. Abuse of this privilege will not be tolerated and may result in disciplinary action. Downloading from the Internet (other than by authorized personnel for legitimate business reasons) is restricted to information files (i.e. federal regulations, statutes, etc.) and required software updates. Downloading any other programs, software, non-work related graphics or pictures of any kind is prohibited as they may carry computer viruses or may violate the city's license agreement. If downloading is necessary, employees need to obtain prior approval from the City Administrator.

Use of Electronic and Technological Communications. Electronic and technological communications, such as cell phones and mobile devices, are not to be used in ways that may be disruptive, offensive or harmful to others or in ways that conflict with any of the city's policies, including equal employment, harassment/offensive behavior, and security policies. Violation of these policies may lead to disciplinary action up to and including termination.

It is not the city's practice or intent to eavesdrop on private communications or data. However, the city must protect its legitimate business interests and remind employees that the equipment and services available in the workplace are to be used to support the city's legitimate business needs.

Chapter 27: GRIEVANCE PROCEDURE

Grievance Procedure. Disputes can often be satisfactorily resolved without instituting a formal grievance process. Therefore, the City of Breezy Point encourages employees to discuss disputed matters with their immediate supervisor prior to submitting a written grievance. If the matter cannot be resolved in this manner, the employee can present his/her concerns verbally to the City Administrator (if not the immediate supervisor) or in the manner as described below. However, should an employee decide to use the grievance procedure, s/he may do so at any time without prior consultation with his/her supervisor.

A dispute between the employee and the city relative to the application, meaning or interpretation of the Personnel Plan shall be settled in accordance with the following procedure:

Step 1: The grievance shall be presented in writing setting forth the nature of the grievance, the facts on which it is based, the provision or provisions of the Personnel Plan allegedly violated, and the remedy requested, by the employee to the City Administrator within ten (10) working days after the alleged violation or dispute has occurred. Upon receipt, the immediate supervisor or City Administrator will respond to the employee in writing within ten (10) calendar working days.

Step 2: If the grievance has not been settled in accordance with Step 1, it shall be presented in writing, setting forth the nature of the grievance, the facts on which it is based, the provision or provisions of the Personnel Plan allegedly violated, and the remedy requested, by the employee to the Personnel Committee within ten (10) calendar working days after the immediate supervisor's or City Administrator's response was due. The Personnel Committee shall provide a written response within 30 days of the receipt of the written appeal

Step 3: If the grievance has not been settled in accordance with Step 2, it shall be presented in writing, setting forth the nature of the grievance, the facts on which it is based, the provision or provisions of the Personnel Plan allegedly violated, and the remedy requested, by the employee to the City Council within ten (10) calendar working days after the Personnel Committee's response is due. The City Council shall provide a written response within 30 days of the receipt of the written appeal

The decision of the City Council shall be the final response to the grievance.

Note: If the grievance is unsettled in accordance with Step 1 because the grievance involves the City Administrator, the employee may, within ten (10) working days of the incident proceed with the procedure described in step 2.

WAIVER:

If the grievance is not presented within the time limits set forth above it shall be considered "waived." If a grievance is not appealed to the next step in the specified time limit or any agreed extension thereof, it shall be considered settled on the basis of the city's last answer. If the city does not answer a grievance or an appeal thereof within the specified time limits, the employee may elect to treat the grievance as denied at that step and immediately appeal the grievance to the next step. The time limit in each step may be extended by mutual agreement of the city and the employee without prejudice to either party.

Chapter 28: Grandfathered Provisions

Certain Employees. Those employees hired prior to June 5, 2006 were grandfathered certain benefits with the adoption of a revised Personnel Plan.

Sick Leave. Every regular employee is entitled to sick leave with pay at a rate of one (1) day for each calendar month of full-time service or major fraction thereof. Sick Leave may be accumulated to a maximum of 90 days (720 hours). Regular part time employees, who are employed for no less than twenty (20) hours per week, shall accrue sick leave in proportion to the percentage of work week for which they are engaged.

Compensatory Time. The accrual of compensatory time is not capped.

Severance Pay. All full time employees shall receive accrued sick leave pay as severance pay up to a maximum of ninety (90) days upon retirement if they have been continuously employed for a minimum period of five (5) years. Employees who must terminate their employment because of a disability (as supported by a physician) need not meet the five-year requirement. In the event of an employee's death, benefits are payable to the beneficiary.

City of Breezy Point Conflict of Interest and Ethics Policy

Purpose

The citizens of Breezy Point are entitled to local government that serves the people with integrity, trust and the public's best interest in mind. The purpose of this policy is to articulate a standard of conduct for elected and appointed officials of the City of Breezy Point. In recognition of the purpose and goals there is hereby established a policy for all public officials of the City of Breezy Point in addressing ethical standards of conduct. This policy is intended to supplement but not replace statutory requirements, attorney general opinions and court rulings.

Expected Conduct

Public elected or appointed officials must put the public interest ahead of their own personal advancement and financial interests, disclose conflicts of interest, and refrain from participating in decisions where a financial interest exists. Public officials must avoid actions that might impair independence of judgment or give the appearance of impropriety or a conflict of interest. Public officials must not use their position to gain privileges or special treatment. Public officials of the City shall avoid any situation that might give rise to or even suggest the potential for a conflict of interest. Public elected or appointed officials shall abstain from participation in discussions, deliberations and voting on a City contract in which the public elected or appointed official's or any member of that official's immediate family has a direct, indirect or pecuniary interest. When a non-contract matter comes before the City in which a public elected or appointed official or anyone in the official's immediate family has a direct, indirect or pecuniary interest, the official shall abstain from participation in discussions, deliberations and voting on that matter.

Definition of Terms

Anything of value or Gift: Money, real or personal property, a permit or license, a favor, a service, forgiveness of a loan or promise of future employment, the payment or receipt of anything that is given and received without the giver receiving consideration of equal or greater value in return. It does not mean reasonable compensation or expenses paid to a public official by the City for work performed.

Association: A business entity of any kind, a labor union, a club or any other group of two or more persons other than the immediate family.

Conflict of Interest. A conflict of interest is present when, in the discharge of official duties, an elected or appointed official participates in a governmental decision, action or transaction in which he or she has a financial interest, except for those interests when the financial interest is no greater than that of another member of his or her business classification, profession or occupation.

- a. *Financial Interest.* A financial interest is any interest, including loans, directly or indirectly, a monetary or other material benefit to the elected or appointed official (other than monetary or material benefits authorized by the City). A financial interest of a local

public official's employer (other than the City) his or her associated business, or his or her immediate family as more specifically defined below, and their employers of associated businesses shall also be considered a financial interest of the local official or volunteer.

- b. *Exception.* The following assets shall not be considered a financial interest for purposes of this policy: (1) ownership of shares in a diversified mutual fund; (2) membership in a pension plan or employee benefit plan; (3) de minimis ownership of bonds or publicly traded securities.

Immediate Family: Immediate family shall be defined as spouse, domestic partner, parents, children, siblings, father and/or mother in-law, son and/or daughter in-law, sister and/or brother in-law, step children, step siblings and half-brother and/or sister.

Interested Person: An interested person means a person, or a representative of a person or association, that has a direct financial interest in a decision that a local official is authorized to make.

Public Official: Any person that has been elected to office, appointed by the City Council, appointed to a city committee or commission, or hired by the city to serve as a department head.

Ethical Considerations and Standards of Conduct

Public Officials are to serve all persons fairly and equitably without regard to their personal or financial benefit. Public officials must maintain integrity and independence in their judgments and actions without consideration of personal gain or bias. A public official shall consider ethical implications in fulfilling their responsibilities.

The list below is not all encompassing but establishes rules, standards and guides ethical actions.

1. Public Officials shall not use their positions to secure special privileges or exemptions for themselves.
2. An elected public official shall not hold another "incompatible office" while at the same time being an elected official. Employed public officials shall not hold such incompatible office without notice and approval by the city council. Elected and appointed public officials shall not hold another office or employment which compromises the performance of their elected or appointed duties.
3. No public official shall use information gained as a public official which is not generally made available to and/or is not known by the public.
4. A public official shall not solicit or receive anything of value from a person or association, directly or indirectly.
5. A public official shall not participate in discussions, deliberations and voting on any financial matters that affects the public official or public officials immediate family directly or indirectly; or those of a business, profession or occupation which the public official is associated.
6. Investments. Except for exceptions stated above, a public official shall disclose any investment which may compromise a decision and disqualify him from that particular action.

7. A public official shall not represent persons or associations in dealing with the city in consideration of any matter before the city.
8. No public official shall grant any special consideration, treatment, or advantage to any citizen beyond that which is available to every other citizen.
9. No public official shall exceed his or her authority, breach the law, or ask others to do so.
10. In accordance with MN Statutes 471.895 an interested person may not give a gift or request another to give a gift to a local official. A local official may not accept a gift from an interested person. The following are permitted under the exceptions to the law.
 - a. Lawful campaign contributions.
 - b. Services to assist an official in the performance of official duties.
 - c. Services of insignificant monetary value.
 - d. A plaque or similar item.
 - e. A trinket or item of insignificant monetary value.
 - f. Informational material of unexceptional value.
 - g. Food or beverage given at a reception, meal, or meeting by an organization before whom the recipient makes a speech or answers questions as part of a program (this exception is only available if the location of the reception, meal, or meeting is away from the recipient's place of work).
 - h. Gifts given because of the recipient's membership in a group.
 - i. Gifts between family members.
11. No elected public official shall give anything of value to potential voters in return for their votes, promises or financial considerations.
12. No public official shall use public funds, personnel, facilities, or equipment for political activities or private gain.
13. Public officials shall provide complete documentation to support expense reimbursements.
14. Public officials shall take no action to benefit a person or entity because of a donation made to the city.
15. No public official shall take official action which will benefit any person or entity where such public official would not have otherwise taken such action but for a family relationship, friendship, or other business relationship.
16. Public officials shall disclose to the governing body any relationship to another person or entity in any instance where there is a real or perceived conflict of interest.

17. Public officials shall not have a personal financial interest in any sales, lease, or contract that they are authorized to make in their official capacities except as authorized by law.
18. Public officials shall comply with all local ordinances, state and federal statutes including, but not limited to, criminal code, Fair Campaign Practices Act, and laws governing municipalities.
19. Public officials have a responsibility to guard against discrimination in hiring, employee relations and decision making. Public officials shall not discriminate against race, creed, color, religion, national origin, gender, sexual or affectional orientation, marital status, familial status, age, disability, or status with regard to public assistance.
20. Public officials must adhere to the requirements of the Open Meeting Law under MN Statutes §13D keeping all deliberations in a public forum with proper notice.
21. Appointed public officials who are hired may not seek or accept appointments to any city committee or commission but may serve in an ex-officio capacity.

Conflict of Interest in Contracts

(From the League of MN Cities)

Generally, public officers may not have a personal financial interest in a sale, lease or contract they are authorized to make in their official capacity. A "public officer" includes the Mayor and any Councilmember. In some circumstances, the designation may also include appointed officers and employees who are able to influence contracting decisions.

The attorney general has advised that the conflict of interest law applies to any Councilmember "who is *authorized* to take part in any manner" in the making of the contract. Simply abstaining from voting on the contract will not allow the contract to be made. The attorney general reasoned that if the Legislature had only wanted to prohibit a contract with an interested officer who votes on the contract, it would not have used the word "authorized."

A literal reading of the statute might suggest that it does not apply to City officers who are unable to make a contract on behalf of the City. However, the attorney general has given the statute a broad interpretation, which could mean the statute affects more officials than just those who actually make the decision to enter into the contract. As a result, it may be wise to take a conservative approach regarding contracts with any City official.

The law would appear to prohibit a contract with a public official who has had the opportunity to influence the terms of the contract or the decision of the governing body.

Exceptions are found in MN Statutes 471.88 regarding contracts and if an exception is to be considered, the legal basis for the exception needs to be identified which may require a city attorney review.

Special Considerations

Required Decisions. Situations can arise when a public official abstains from voting because of a conflict of interest, but the vote requires a super majority to take action. This can happen where a four-fifths vote is needed to pass an issue or a split vote doesn't pass or reject it, as examples. The disqualified public official is required to act providing a disclosure is made concerning the nature of the conflict prior to the action taken. The record of the meeting shall clearly state the conflict, the reasons for the required vote and its resolution.

No Financial Interest. A local public official may participate in a City government decision, action, or transaction involving an association or entity if the public official or immediate family member is an officer, director, board member, or trustee but does not have a financial interest in the governmental decision, action or transaction. However, the public official must disclose his or her affiliation with the organization or entity as though it was a conflict of interest.

Related Person. A local public official may participate in a City governmental decision involving a related person, other than his or her immediate family, if the public official does not have a financial interest in the governmental decision, action, or transaction. However, the public official must disclose his or her relationship with the related personnel as though it were a conflict of interest.

Disclosure

If a public official, in the discharging of his or her duties, recognizes that a conflict of interest could occur the public official shall disclose the conflict as soon as they are aware of it. This disclosure shall include the nature of the conflict and may be made orally during the meeting or if unable to attend the meeting a written disclosure shall be provided and read into the record at this or a subsequent meeting and recorded in the minutes.

Upon disclosure the member must abstain from deliberation, discussion and voting on the issue.

Compliance and Enforcement

Council, Commissioners and Committee members themselves have the primary responsibility to assure that the code of conduct is understood and followed. It is the responsibility of the public official to police its members. When inappropriate behaviors are observed, any member of the council, commission or committee can intervene. If inappropriate behavior is observed, the city council will discuss the matter.

By direction of the council, it will be determined whether:

- a. A letter is sent to the offending public official stating that they have been found operating outside the established conflict of interest policy, requesting them to correct the behavior identified as inappropriate; or
- b. The public official is formally sanctioned by resolution at a council meeting.
- c. Other messages as the city attorney may advise.

Adopted by Breezy Point City Council – April 2, 2012

EMPLOYEE AFFIRMATION

I have received a copy of the City of Breezy Point's Personnel Policy amended September 8, 2020 and I acknowledge receipt and my responsibility to read and understand the policy in its entirety.

Employee Name

Signature

Date

cc: Personnel File