



City of Elkins

Rules and Ordinances Committee Meeting

March 2, 2026

3:30 PM

Phil Gainer Community Center
142 Robert E Lee Ave. Ext.

Charter Authority of the Rules & Ordinances Committee: Consider and propose to Council new and amended ordinances, rules, and policies.

AGENDA

1. **Call to Order and Roll Call**
2. **Public Comment**
3. **Minutes**
 - a. Proposed minutes for the meeting of February 2, 2026
4. **Reports**
5. **New Business**
 - a. Council Rules update
 - b. Short-term rentals
 - c. Amendment of §71.53 (Parking in Downtown Alleys) to replace map with text description
6. **Announcements**
7. **Adjournment**



CITY OF ELKINS AGENDA ITEM REPORT

Meeting Date:	March 2, 2026
Section:	Minutes
Category:	Action Item
Agenda Item Name:	Proposed minutes for the meeting of February 2, 2026
Recommended By:	City Clerk
Summary:	Minutes proposed for the referenced meeting
Fiscal Impact:	n/a
Recommendation:	Consider for approval
Attachments:	1. Rules and Ordinances Committee - 2026_02_02 - minutes_proposed

RULES AND ORDINANCES COMMITTEE MEETING MINUTES

*Phil Gainer Community Center
142 Robert E. Lee Ave. Ext.
February 2, 2026
3:30 p.m.*

Present were members: N. Bross-Fregonara (chair), A. Carroll, and L. Severino.

Also present were: Mike Kesecker (operations manager), Tracy Judy (treasurer), Sutton Stokes (city clerk), and Mikayla Goins (executive secretary).

MINUTES

Carroll **MOVED APPROVAL OF THE MINUTES FOR THE MEETING OF JANUARY 5, 2026.** The motion carried.

NEW BUSINESS

a. Council rules update

The Committee discussed updates to Council Rules. No action taken.

b. City code cleanup

The Committee discussed the process of reviewing city code to identify sections that may be in need of improvements. No action taken.

The meeting adjourned at 4:00 p.m.

Name & Title

Signature



CITY OF ELKINS AGENDA ITEM REPORT

Meeting Date:	March 2, 2026
Section:	New Business
Category:	Action Item
Agenda Item Name:	Council Rules update
Recommended By:	City Clerk
Summary:	The latest version of the draft update of Council Rules of Proceedings is attached. The draft now includes appendices.
Fiscal Impact:	n/a
Recommendation:	Review and consider next steps
Attachments:	1. Draft_Rules_of_Procedure - 2026_02_23 - appendices

Elkins Council

Rules of Proceedings

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ARTICLE I – GENERAL PROVISIONS

Section 1.1: Purpose and Scope

These Rules of Procedure (“Rules”) govern the conduct of meetings and legislative actions of the Governing Body (“Council”) of the City of Elkins, West Virginia (“City”), and its Committees. The intention of these Rules is to provide structure, ensure lawful compliance, and promote orderly and efficient deliberation.

Note concerning meetings of Council Committees

Committee proceedings are less formal than those of Council while still maintaining orderly deliberation and decision-making. Consistent with Robert’s Rules of Order for Small Boards, and unlike meetings of the full Council:

- No second is required for a motion;
- Members may discuss an item before any motion is offered; and
- The floor is generally open for conversational discussion among committee members and city officials without the need for formal recognition by the chairperson.

The Chairperson may, however, require formal recognition when necessary to maintain order. Although members of the public more frequently address Committees than the full Council, they must nonetheless seek formal recognition before addressing a Committee.

Any ambiguity arising from the differences between Council and Committee procedures shall be resolved in the manner that best promotes good order and the efficient conduct of Committee business, and not in any way that unnecessarily impedes a Committee’s ability to advance the public good.

Section 1.2: Definitions

Administrative Officers: The City Clerk, City Treasurer, Fire Chief, Operations Manager, and Police Chief, as defined in City Code §32.02.

City Clerk, or Clerk: The person appointed to the office established in §3.06 of the City Charter.

Committees: Standing committees of Council established by the City Charter—Finance, Municipal Properties, Personnel, Public Safety, and Rules & Ordinances Committees—and any ad hoc Committees. Committee membership and chairpersons are designated by the Mayor. Standing and ad hoc committees shall consist of no fewer than three and no more than five members.

Council: The governing body, including the Mayor. The terms “City Council” and “Common Council” are interchangeable.

Ethics Act: The West Virginia Governmental Ethics Act, W. Va. Code §6B, which establishes ethical standards for public officers and employees and governs conflicts of interest, financial disclosure,

use of public office for private gain, and related requirements enforced by the West Virginia Ethics Commission.

Governing Body: The Council or, as applicable, any of its standing or ad hoc Committees.

Meeting: The convening of a Governing Body for which a Quorum is required to make a decision or deliberate toward a decision resulting in an official action, as defined in W. Va. Code §6-9A-2(5). Meetings of the Elkins Common Council must also comply with City Code §31.02. Meetings may occur in person or by telephone conference or other electronic means.

Open Meetings Act: The West Virginia Open Governmental Proceedings Act, W. Va. Code §6-9A, which requires that meetings of governing bodies be conducted openly, with advance notice, public access, proper agendas, and limited use of executive sessions as authorized by law.

Order of Business: The standard order of agenda sections for Council and Committee meetings.

Quorum: A majority of the sitting members of a Governing Body present at a Meeting where such attendance is required for the transaction of business. In Elkins, the Mayor is not counted toward Quorum under City Charter §2.08.

Presiding Officer: The person charged with conducting Meetings. For Council, the Presiding Officer is the Mayor or, in the Mayor's absence, the City Clerk or a member selected by a majority of those present. For Committees, the Presiding Officer is the chairperson designated by the Mayor or, in the chairperson's absence, a member selected by a majority of those present.

Recording Secretary: The official responsible for keeping minutes of a Governing Body's proceedings. For Council and its Committees, this is the City Clerk or the City Clerk's designee. The City Clerk remains ultimately responsible for the accuracy, form, and preservation of the official minutes.

Unanimous Consent: A procedure for approving minor or procedural actions when no member objects. The Presiding Officer proposes the action "if there is no objection," after which any objection requires the action to be moved, seconded, and approved by majority vote.

Note on Defined Terms: For clarity, defined terms such as "City Clerk," "Councilmember," "Presiding Officer," and "Open Meetings Act" are capitalized throughout these Rules.

See also Appendix A – Glossary of Parliamentary Terms for additional definitions used in Council procedure.

Section 1.3: Meetings

All meetings of Council shall comply with the Open Meetings Act, the City Charter, and City Code §31.02.

Types of Meetings include:

- *Regular Meetings:* Held at intervals established in City Code.

- *Special Meetings:* Called by Council at times other than those established for Regular Meetings.
- *Special-Called Meetings:* Called by the Mayor or any two Councilmembers; the written call must state the purpose and proposed action items.
- *Emergency Meetings:* Convened only when immediate action is necessary. The existence of emergency circumstances alone does not justify an Emergency Meeting; there must be both an emergency and an articulable necessity for prompt action by the Governing Body. Notice requirements are suspended only to the extent necessary, and notice must still be posted as soon as practicable. Actions taken at an Emergency Meeting should ordinarily be docketed for reconsideration, discussion, or ratification at the next Regular Meeting.

Notification of the time, date, location, and agenda of Special, Special-Called, or Emergency Meetings shall be provided in the same manner as for Regular Meetings. When usual notification methods are insufficient, reasonable alternate methods should be used. Except under unusual circumstances, all staff who customarily attend meetings shall be notified of every meeting in the same manner as Councilmembers.

Section 1.4: Attendance and Participation

Councilmembers are expected to attend all meetings. No official action may occur unless a Quorum is present. Before calling a meeting to order, the Presiding Officer must be reasonably certain that a Quorum exists.

Members are expected to attend meetings in person. In-person attendance supports transparency and accountability and helps ensure clear, efficient discussion and effective action.

City Code §31.02 allows members for whom in-person attendance is difficult or impossible to participate in otherwise in-person meetings by telephone or other electronic means, as permitted by Council. Except in fully remote meetings, the Presiding Officer must be physically present unless an emergency prevents it. A Councilmember is considered present for Quorum purposes under the following conditions:

Physical Presence: The member is physically at the meeting site.

Remote Participation: The member attends by telephone or electronic means, provided:

- The participant is clearly identifiable;
- All participants can hear and be heard in real time; and
- Members of the public can hear all participants in real time.

Members participating remotely may engage fully in discussion, debate, and voting, subject to:

- Notice Requirement: **At least six (6) hours' written notice** to the City Clerk prior to remote participation to allow adequate technical preparation.

- Annual Limit: A member may not attend **more than three Regular Meetings** remotely per calendar year unless additional remote participation is approved by majority vote of Council.

Remote participants shall identify themselves before speaking; recognition by the Presiding Officer satisfies this requirement.

Council may elect to meet entirely by electronic means under special circumstances such as health or safety emergencies, provided public access is maintained in real time. All remote participation must comply with W. Va. Code §6-9A.

Section 1.5: Oath of Office

At the first meeting involving any newly elected or appointed Mayor or Councilmember, the first order of business shall be administration and subscription of the Oath of Office in accordance with state law.

The oath shall be administered by the Mayor, City Clerk, or another official authorized to administer oaths, and shall substantially conform to the language prescribed in the West Virginia Constitution and W. Va. Code §6-1-3:

I, [insert member's name], do solemnly swear that I will support the Constitution of the United States and the Constitution of this State and that I will faithfully discharge the duties of [Mayor or City Councilor] to the best of my skill and judgment, so long as I may continue therein.

The subscribed oath shall be recorded in the minutes, and a signed copy retained by the City Clerk in the official municipal records.

No Councilmember may vote, make motions, or otherwise participate in the formal actions of Council until the oath has been taken and recorded.

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ARTICLE II – MEETING PROCEDURES

Section 2.1: Preparation and Distribution of Agendas

The City Clerk shall coordinate the preparation and distribution of meeting agendas in compliance with the Open Meetings Act. Responsibilities include:

- Compiling items approved for inclusion.
- Preparing meeting packets and distributing agendas and supporting materials to each Councilmember prior to the meeting.
- Confirming that scheduled public hearings are duly advertised.
- Ensuring that meeting notices and agendas are posted as required by law.

Agenda Packets:

Agenda packets shall be prepared for all meetings of Council and its Committees. Packets shall be distributed as soon as practicable in advance of each meeting, generally at least one day prior. Council and its Committees ordinarily require that each agenda item be accompanied by a memorandum or other written summary, together with any supporting documentation (e.g., invoices, contracts, draft policies, or similar materials) sufficient to explain the action requested and the reasons for it. Council or its Committees may decline to consider agenda items for which the required information has not been submitted in advance of the meeting.

Section 2.2: Minutes

The City Clerk shall prepare official minutes that include:

- Date, time, and location of the meeting;
- Names of members present and absent;
- Motions made, including the names of the movant and seconder;
- The result of each vote, including, when applicable, how each member voted.

The City Clerk shall also serve as the official timekeeper for portions of the meeting in which debate, Council remarks, or public testimony is subject to time limits, unless the Presiding Officer appoints another timekeeper.

Corrections

Approved minutes may be corrected by the City Clerk at any time that a non-substantive error or omission is discovered. Substantive corrections may be proposed by the Mayor, any Councilmember, or the City Clerk, reviewed for accuracy, and approved by a majority vote of Council. Substantive corrections shall be noted in the minutes of the meeting at which they are approved, and the original minutes shall be clearly marked to indicate that a correction was made, including the date of correction.

Section 2.3: Order of Business

The standard order of business for Council and Committee agendas shall be as follows. Both Council and its Committees may omit sections as appropriate to the purpose and scope of the meeting.

Committee agendas shall follow the same order but may omit items as appropriate to their scope.

1. *Invocation and Pledge.*
2. *Call to Order.* The Presiding Officer shall call the meeting to order at the appointed hour.
3. *Roll Call.* The City Clerk shall call the roll, or the Presiding Officer may note attendance verbally.
4. *Public Hearings* (if scheduled).
5. *Public Comments.* City residents or taxpayers may address the Governing Body for no longer than five minutes concerning agenda items, or, upon an affirmative motion duly made and approved by Council, other matters, subject to such rules as Council may impose from time to time. This is not a question-and-answer period, nor are these remarks subject for debate.
6. *Approval of Minutes.*
7. *Correspondence, Notifications, and Recognitions.* Includes non-action informational items and recognitions, citations, or awards.
8. *Councilor Reports & Comments.* Councilmembers may present Committee reports or address the body. These remarks are not subject for debate.
9. *Officer Reports.* Administrative Officers, the City Attorney, and the Chief Operators of the Public Wastewater and Water Systems shall provide informational reports. These remarks are not subject for debate.
10. *Unfinished Business.* Items left pending at the previous meeting, including postponed items or business not reached due to early adjournment.
11. *New Business.* New items presented for action or deliberation.
12. *Mayor's Comments.* The Mayor may offer information or updates. These remarks are not subject for debate.
13. *Adjournment.* Adjournment is automatic once all agenda items have been addressed. A motion to adjourn is only required to end a meeting prior to completing the agenda.

The Order of Business may be altered by Unanimous Consent or by a motion approved by a majority of Councilmembers present. To obtain Unanimous Consent, the Presiding Officer proposes the change and proceeds if no member objects.

Section 2.4: Recess, Continuance, and Adjournment

Council may recess and reconvene a meeting at a later time and place if members wish to end a meeting before completing all agenda business. The time, date, and location of reconvening must be announced on the record, with public notice provided as required by the Open Meetings Act.

Adjournment ends the meeting, and no business may be conducted afterward. Adjournment is automatic once the agenda is completed. A motion is only required when ending the meeting before all agenda items have been addressed.

A meeting may be continued only to address items already appearing on the original agenda.

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ARTICLE III – LEGISLATIVE INSTRUMENTS AND AGENDA CONTROL

Section 3.1: Forms of Action

Council may take legislative action via ordinance or resolution, depending on the subject matter and applicable law. From time to time, substantive action may be taken via motion, although this is not preferred. This section provides a general overview; each form is treated in more detail in the sections that follow.

Ordinances

An ordinance is required where formal legislation is mandated by statute, charter, or case law. Under W. Va. Code §8-11-3, Council action must be by ordinance in the following cases (unless otherwise provided by law):

- Levying taxes or establishing fees;
- Requiring a business license;
- Establishing offenses and penalties;
- Authorizing bonds or indebtedness;
- Approving public improvements;
- Purchasing or selling municipal property;
- Laying out or vacating streets, alleys, or public ways;
- Enacting planning or zoning measures;
- Granting public utility franchises;
- Any other matter required by the City Charter or West Virginia Code to be enacted by ordinance.

Although State law generally requires intergovernmental contracts or agreements to be approved by ordinance, the City of Elkins has been granted Home Rule authority to approve such agreements by resolution.

Ordinances must be introduced, read, and adopted in accordance with W. Va. Code §8-11-4. This typically requires:

- Reading the proposed ordinance by title at two separate meetings at least one week apart, unless full reading is demanded; and
- Additional procedural requirements for revenue-raising ordinances and certain technical codes.

An ordinance may be amended after introduction; however, substantive amendments require restarting the full reading process, as if introducing a new ordinance.

Resolutions

A resolution is used for administrative, ceremonial, or policy decisions not requiring an ordinance. Resolutions are adopted by motion and majority vote and may:

- Approve certain contracts;
- Set internal policies or procedures;
- Make appointments or authorizations;
- Express the Council’s intent or opinion.

Motion

A motion is a procedural tool used to propose and adopt action within a meeting. When passed, it becomes a formal act of Council.

Section 3.2: Introduction of Legislation (Ordinances)

Except upon a finding by Council that circumstances are so urgent as to brook no delay, **proposed ordinances must be referred to Council by:**

- **The Rules & Ordinances Committee,** or
- A City board or commission acting within the authority granted to it by State or City Code.

The City Attorney shall prepare and must approve the final form of all ordinances. The City Clerk shall assign a number to each ordinance.

A referring body (Rules & Ordinances Committee or the originating board/commission) may forgo reviewing an ordinance after it has been drafted by the City Attorney.

An ordinance is considered introduced before Council when the Presiding Officer reads its title aloud from the meeting agenda.

An ordinance that is approved on one reading shall be docketed for its next reading on the agenda of the next Regular or Special Council meeting, in accordance with W. Va. Code §8-11-4.

If an ordinance fails on any required reading, it may be reintroduced only after subsequent review and recommendation by the Rules & Ordinances Committee or, if appropriate, the originating board or commission. A substantively revised ordinance may need to be introduced, read, and adopted anew in accordance with all applicable requirements, including public notice or hearing.

Section 3.3: Resolutions

Actions not requiring an ordinance shall generally be presented as resolutions, referred to Council by an appropriate Committee.

The text of a resolution may be amended at the meeting where it is introduced; however, significant amendments may warrant postponement to allow review.

The City Clerk or City Attorney will prepare and approve the final form of resolutions they have drafted. The City Clerk shall assign a number to each resolution. Any revision to a resolution prepared by the City Attorney must be approved by the City Attorney.

If the vote to adopt a resolution fails, an identical or substantively similar resolution may be reintroduced only after subsequent review and recommendation by its originating Committee, if applicable.

Section 3.4: Direct Action Motions

The preceding sections describe legislative actions taken through written instruments such as ordinances or resolutions. Less often, the motion itself constitutes the action. Direct Action Motions are typically used for procedural matters, including but not limited to:

- Approval of minutes or vendor invoices;
- Scheduling special meetings;
- Referral of items to committees;
- Suspending these rules;
- Limiting debate or public comment;
- Other administrative or non-legislative matters.

Such motions should be stated clearly and read back by the City Clerk before the vote is taken so that members understand what they are voting on and the resulting action is unambiguous in the minutes.

When a Direct Action Motion is likely to be of continuing or longstanding interest, the City Clerk may place the action into the form of a simple resolution (a resolution without preamble paragraphs), assign a resolution number, and add it to the City's resolution record. The Clerk shall note this action in the minutes of the meeting where the motion was approved.

Section 3.5: Agenda Control and Disputes

Agenda Authority

To ensure that items brought before Council are ripe for consideration, the standard practice is to present matters first to the relevant Council Committee. Council will generally not entertain requests for items to be placed on its agenda without prior Committee review. The City Clerk, in consultation with Committee Chairpersons and relevant staff, will assist staff and the public in navigating this process.

Individuals proposing new or amended laws must submit written application to and may be required to appear before the Rules & Ordinances Committee.

The following items shall be docketed on the Council agenda without need for further review or approval, usually on the next Regular or Special Meeting agenda unless additional preparation time is required:

- Items referred to Council by action of a standing or ad hoc Committee acting within their authority under the Charter or, in the case of ad hoc committees, within the authority described in the order establishing them;
- Items referred by City boards or commissions acting within their lawful authority;

- Items referred by the written request of three or more Councilmembers.

All other proposed items may be docketed only upon approval of the Mayor.

Once agenda items are read aloud from the agenda by the Presiding Officer, they are in the possession of the body and may not be removed without the consent of Council.

Items proposed for Committee agendas may be docketed only with the approval of the relevant Committee Chairperson or by written request of at least two other members of the Committee.

Role of Officers

City officers have the following roles in agenda preparation:

- *Administrative Officers and Other Council Appointees:* May recommend agenda items to the Mayor or to Committee Chairpersons, particularly for administrative or operational matters.
- *City Clerk:* Compiles, publishes, and distributes the agenda and supporting packet to all Governing Body members, Administrative Officers, and other appropriate staff; ensures compliance with the notice requirements of the Open Meetings Act.

Section 3.6: Hierarchy and Characteristics of Legislative Act

City Charter – Highest Local Authority

The Charter is the City’s foundational governing document, comparable to a constitution. It defines the structure, powers, and procedures of City government. All ordinances and resolutions must conform to the Charter.

Ordinance – Subordinate to the Charter; Superior to Resolution

An ordinance is a legislative act with the force of law. It is used for matters of general application, including:

- adoption of permanent rules;
- establishment of penalties;
- levying of taxes;
- regulation of public or private conduct.

Resolution – Lowest in Hierarchy

A resolution expresses the Council’s will, intent, or internal policy and may be used to:

- Approve contracts not requiring an ordinance;
- Make appointments;
- Set internal rules;
- Convey opinions or intentions.

Resolutions may not conflict with or override ordinances, the Charter, or State law. Substantive amendments may warrant deferral to a later meeting.

In the context of this hierarchy, motions are equivalent to resolutions, because any resolution may be revised or overturned by a motion and vice versa.

Section 3.7: Withdrawal and Substitutes

Withdrawal

Once read aloud by title at a Council Meeting, an ordinance or resolution is in the possession of Council and may be withdrawn only with Council's consent. This action can be taken by Unanimous Consent, but if anyone objects, a motion must be made, seconded, and voted on.

Substitutes for Ordinances and Resolutions

A Councilmember may propose that Council substitute an entire ordinance or resolution with new language, provided:

- The substitute remains germane to the title and subject matter listed in that meeting's agenda;
- The proposal complies with the rules for amendments and debate;
- The substitute does not violate notice requirements.

A substitution that materially changes the purpose or scope of an ordinance on second reading requires reintroduction and republication to meet due process and statutory notice requirements. Any substitute ordinance must be reviewed by the City Attorney prior to final adoption.

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ARTICLE IV – MOTIONS AND VOTING

Section 4.1: Motions Generally

Council action is taken through motions, which must be clearly stated and seconded, except when action is taken by Unanimous Consent. Unanimous Consent may not be used when State law requires passage of an ordinance, resolution, or motion by recorded vote of each member in the official minutes.

The Presiding Officer shall restate each motion prior to debate and shall call for a vote once discussion has concluded.

Section 4.2: Types of Motions

Common motions include:

- To adopt (e.g., to pass an ordinance or resolution);
- To amend (propose changes to a pending motion);
- To table (postpone temporarily to address an issue interrupting or impeding the meeting);
- To postpone (defer action to a later meeting to permit further research or review);
- To reconsider (review and potentially reverse a prior vote);
- To adjourn (end the meeting before completing the agenda);
- To call the question (end debate and proceed to a vote).

The Presiding Officer may reject dilatory, redundant, or obstructive motions.

For a step-by-step overview of how motions are introduced, seconded, debated, amended, and voted upon, see Appendix B: Guide to Motion Practice. This reference provides practical examples and clarifications to assist Councilmembers and the Presiding Officer in applying these rules consistently.

Section 4.3: Debate and Decorum

Debate must be directed to the Presiding Officer and confined to the merits of the pending motion.

Councilmembers shall not engage in personal attacks, challenge one another, interrupt, or speak without recognition. The Presiding Officer may rule on questions of decorum and has authority to warn, silence, or eject disorderly speakers.

Section 4.4: Voting and Majority Requirements

Unless otherwise required:

- A motion passes with a majority of votes cast, provided a Quorum is present.
- A tie vote fails.

Each member present shall vote unless excused due to a disclosed conflict of interest or other recognized abstention.

Councilmembers shall not explain or justify their vote during the act of voting; such statements are considered debate and must occur before the vote is called.

The Mayor has both the right and the duty to vote in the event of a tie. The Mayor otherwise does not vote.

Votes may be taken by voice vote, show of hands, or roll call, if requested by the Presiding Officer or any member. When any Councilmember participates remotely, voting shall be conducted by roll call to ensure that each member is identified and their vote is publicly observable and recorded, except that actions adopted by consensus without objection need not be taken by roll call.

Abstentions shall be noted in the minutes but do not count as votes for or against the motion. A member who abstains due to a conflict of interest is still counted present for purposes of Quorum.

Section 4.5: Appeal of a Decision of the Presiding Officer

Any Councilmember may appeal a decision of the Presiding Officer, including rulings on points of order or decorum. An appeal must be made promptly, before other debate or business intervenes.

When an appeal is made, the Presiding Officer shall clearly state the decision being appealed and may briefly provide reasons for that decision. The body may debate the appeal, but debate shall be confined to the merits of the appeal itself, not the underlying question or motion.

When debate, if any, is concluded, the Presiding Officer shall put the question to Council: "Shall the decision of the Presiding Officer be sustained?" A majority affirmative vote of those present sustains the decision.

The right to appeal does not apply to procedural questions not squarely presented in the proceedings or to purely factual determinations.

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ARTICLE V – PUBLIC COMMENTS, PUBLIC HEARINGS, AND EXECUTIVE SESSIONS

Section 5.1: Public Comment

Public Comment allows city residents and taxpayers to speak to Council or a committee about agenda items, issues of general community interest, or related announcements. Because Council and committee meetings are primarily for conducting the City’s business, reasonable limits may be placed on Public Comment to ensure meetings stay focused and proceed efficiently.

Individuals who are not city residents or taxpayers may not address Council during Public Comment. Taxpayers who are not residents include owners of rental properties or businesses located inside city limits. According to the West Virginia Supreme Court, the Fire & Rescue Service Fee is not a tax. However, comments from Fire & Rescue Service Fee payers will be allowed when items regarding this Fee appear on the agenda of Council meetings or hearings.

Members of the public may always share concerns with elected officials outside of meetings, either directly using contact information available on the City’s website or by requesting to address the appropriate Committee. The City Clerk serves as a liaison between Council and the public and will assist in facilitating such requests.

The minutes shall, at a minimum, list all persons providing spoken or written Public Comment and briefly summarize the position taken (e.g., spoke in support, spoke in opposition, recommended an amendment, etc.).

Section 5.2: Conduct of Public Comment

City residents and taxpayers wishing to speak during Public Comment must sign up by name and topic, clearly specifying whether their remarks will address an item appearing on that meeting’s agenda, no later than five minutes before the meeting begins.

At the designated point in the Order of Business, the Presiding Officer shall open Public Comment and recognize speakers in the order in which their names appear on the list, subject to the rules below. After the final listed speaker has been heard, the Presiding Officer shall close Public Comment. Once closed, Public Comment will not be reopened, and members of the public will not ordinarily be given the floor at any other point during the meeting.

The following rules apply:

- Any citizen or taxpayer of the City may speak on any item appearing on that meeting’s agenda.
- Any citizen or taxpayer of the City may speak on matters not appearing on that meeting’s agenda only upon a motion duly made, seconded, and approved by Council. Absent such a motion and approval, no such comments shall be heard.
- Remarks are limited to five minutes, except upon a motion duly made, seconded, and approved by Council.

- An individual may speak only once on the same subject at a meeting, except upon a motion duly made, seconded, and approved by Council.

Speakers must provide their name and address, address remarks to the Presiding Officer, and remain at the podium or designated area while speaking. For safety and decorum, speakers shall not approach Council. Any handouts for Councilmembers will be distributed by City staff.

To maintain fairness and efficiency, Council may impose additional restrictions on comments concerning non-agenda items, including:

- Disallowing all such comments at a given meeting;
- Requiring that a large group designate one or more spokespersons;
- Reducing individual or overall time limits.

Section 5.3: Public Hearings

Public Hearings provide a formal opportunity for public comment on specific legislative, zoning, budgetary, or other matters. Council shall hold Public Hearings when required by:

- West Virginia Code;
- The City Charter or ordinance; or
- Council action, when deemed appropriate.

Public Hearings may be:

- Held during a Regular or Special Meeting;
- Delegated to staff or subcommittees when legally permissible;
- Conducted at City Hall or another accessible public location within City limits or elsewhere in the county when necessary.

Section 5.4: Conduct of Public Hearings

Members of the public wishing to speak at a Public Hearing must sign up by name no later than five minutes before the meeting begins.

At the appropriate point in the Order of Business, the Presiding Officer shall open the Public Hearing and recognize speakers in the order in which they signed up. Speakers are limited to five minutes unless Council waives or modifies the limit at the beginning of the hearing. Speakers who raise topics other than the matter that is the subject of the hearing will be declared out of order.

After all speakers have been heard, the Presiding Officer shall close the Public Hearing.

The written record of the hearing shall list all persons providing spoken or written comment and briefly summarize the position taken (e.g., support, opposition, proposed amendment).

Section 5.5: Written Comments

Written comments submitted in connection with Public Comment or a Public Hearing must comply with the same standards of relevance, decorum, and civility as spoken comments. All written submissions become public records subject to the West Virginia Freedom of Information Act (FOIA) and will be preserved by the City Clerk as part of the official record without need for separate Council action.

Written comments submitted at or before a meeting or hearing form part of the official record but need not be read aloud. The City Clerk shall provide a list of persons submitting written comments and a brief summary of their positions and ensure the materials are available for public inspection as required by law.

Exception – Nonstandard, Unmanageable, Repetitive, or Published Submissions

Submissions that consist of oversized materials, physical exhibits, or media other than standard documents (e.g., videos, physical objects, digital storage devices) that cannot reasonably be reproduced or archived using City equipment shall not be retained unless:

- Required by the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA);
- Required by another applicable statute; or
- The Council votes to accept the materials as part of the record.

When such materials are excluded, the City Clerk shall summarize the nature of the excluded materials in the minutes and retain any component that can reasonably be accommodated.

The City Clerk may also summarize and otherwise omit from the record:

- Lengthy published materials readily available elsewhere;
- Multiple copies of substantively identical form letters (retaining one example copy for the record);
- Other excessive or repetitive submissions.

Section 5.6: Executive Sessions (Closed Meetings)

Authority

A Governing Body may enter Executive Session and exclude the public only under the circumstances expressly authorized in the Open Meetings Act (§6-9A-4). Members are encouraged to familiarize themselves with this section of State law, which sets forth the exclusive statutory grounds for entering Executive Session.

Procedure for Entering Executive Session

1. Motion Requirements

To enter Executive Session:

- A member must move to do so;
- The motion must state the agenda item and the statutory authority relied upon (see W. Va. Code §6-9A-4);
- The motion must identify any non-members invited into the session; and
- The motion must be approved by a majority of the members present.

2. *Multiple Authorities*

Although it is permitted to move to enter Executive Session on more than one agenda item or to cite multiple statutory authorities, doing so is generally discouraged where it may cause confusion or ambiguity for members or the public.

3. *Specificity of Agenda Items*

A Governing Body cannot predetermine that a particular item will be discussed in Executive Session. As with any agenda item, the description of a potential Executive Session must be as specific as reasonably possible, balanced against legitimate confidentiality or sensitivity concerns.

Participants in Executive Sessions

An Executive Session includes all eligible members of the Governing Body, including the Mayor, and any additional persons the Governing Body elects to include. No individual who is not an eligible member has a right to attend and may be included only by invitation of the Governing Body as a whole. Unless the nature of the matter under discussion clearly requires otherwise, it shall be presumed that the City Attorney and the Administrative Officers described in City Code §32.02 will be invited to attend Executive Sessions, in keeping with their assigned role in the conduct and management of the affairs of the City on behalf of Council.

A person who is the subject of an Executive Session may, in certain circumstances, have the right to require that the discussion occur publicly rather than in Executive Session, depending on the statutory authority relied upon. The Governing Body is not required to notify an individual that they are the subject of an Executive Session.

Compliance With the Open Meetings Act

1. *Staying Within the Stated Purpose*

To ensure transparency and compliance with the Open Meetings Act, members must make a good-faith effort to ensure that discussion in Executive Session does not stray from the topic or statutory authority stated in the motion.

For example, although Executive Session may properly be used to obtain privileged legal counsel on an aspect of an agenda item, this does not authorize discussion of unrelated aspects of the item that are not subject to privilege. The presence of legal counsel in Executive Session does not, by itself, transform the discussion into a privileged consultation or justify exclusion of the public absent another statutory basis.

2. *Member Responsibility*

Any member present who believes that discussion has strayed beyond the permitted scope must promptly advise the body and either request a return to the stated purpose or move to exit Executive Session.

Executive Sessions believed to violate the Open Meetings Act should be reported to the City Attorney, notwithstanding Council's adopted local rule concerning confidentiality of Executive Session discussions (see Section 5.7).

Recordkeeping for Executive Sessions

No minutes or other records of the Executive Session may be created, and recordings are prohibited.

The Presiding Officer must ensure the following are recorded in the public minutes:

- The motion to enter Executive Session;
- The statutory authority cited;
- The time the session began and ended;
- The time the public meeting resumed;
- The Presiding Officer's report that no decisions were made and no actions were taken;
- Any non-members invited into the session, whether named in the original motion or added after entering the Session.

Section 5.7: Confidentiality and Disclosure

Executive Sessions often concern matters protected by State or federal law, including but not limited to:

- Taxpayer information;
- Personally identifiable information (PII);
- Protected health information (HIPAA);
- Security plans or sensitive safety information;
- Criminal investigations; or
- Attorney-client privileged communications.

Unauthorized disclosure of legally protected or privileged information may:

- Violate federal or State law (including laws outside the Open Meetings Act);
- Constitute a breach of fiduciary duties;
- Expose the disclosing party to civil or criminal penalties;
- Constitute a violation of the West Virginia Ethics Act.

Council has also adopted a local rule (Resolution 1551) requiring all participants in Executive Sessions to maintain the confidentiality of matters discussed, except when disclosure is expressly

authorized by the Governing Body or required by law. This rule prohibits the creation of any record of Executive Session discussions, including recordings (see Appendix C).

In addition to statutory penalties, breaches of confidentiality may be grounds for censure or other Council action under these Rules. Attorney-client communications must remain confidential unless Council votes to waive the privilege. Members have a duty to safeguard all confidential or privileged information.

Section 5.8: Prohibited Actions in Executive Session

No action may be taken in Executive Session unless expressly authorized by law. All final votes or decisions must occur in open session.

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ARTICLE VI – CONDUCT, DECORUM, AND DEBATE

Section 6.1: Standards of Conduct

Elected officials are expected to conduct themselves with dignity, respect, and courtesy toward one another, the public, and staff. This includes:

- Listening attentively;
- Speaking respectfully;
- Avoiding personal attacks or inflammatory language;
- Refraining from interrupting others except as permitted by parliamentary procedure.

Elected officials are public fiduciaries and must act in the best interests of the City and its residents.

Section 6.2: Decorum in Debate

Debate must be germane to the question under discussion and directed to the Presiding Officer. The Presiding Officer may:

- Recognize speakers in order;
- Limit repetitive or irrelevant comments;
- Declare a speaker out of order;
- Enforce time limits adopted by rule or consent.

The Presiding Officer may call any member to order. A member called to order must cease speaking until the question of order is resolved.

The Presiding Officer may direct any Councilmember to discontinue remarks that are persistently irrelevant, repetitious, or otherwise in violation of these Rules. Members shall not engage in side conversations or other distracting conduct. Side conversations or electronic communications between members may violate the Open Meetings Act, and electronic communications among members during meetings may be subject to FOIA.

All remarks must be addressed to the Presiding Officer. Members shall confine their comments to the pending question and avoid personal attacks or accusations.

- *Speaking Order:* The member who introduces a motion has the first opportunity to speak to it. No member may speak a second time on the same matter until all members wishing to speak have had the opportunity to do so once.
- *Balanced Debate:* When feasible, the Presiding Officer should alternate recognition between members with differing viewpoints to ensure balanced consideration.
- *Timekeeper:* When debate or public comment is subject to time limits, the City Clerk shall serve as timekeeper unless otherwise designated by the Presiding Officer.

Section 6.3: Disorderly Conduct

Any person—member, staff, or attendee—who disrupts the meeting may be warned, silenced, or removed by order of the Presiding Officer.

Disorderly conduct includes:

- Interrupting speakers;
- Shouting or cursing;
- Making threats;
- Displaying signs that obstruct views or endanger safety;
- Refusing to yield the floor after time has expired.

Any removal must comply with First Amendment protections and be narrowly tailored to preserve order rather than suppress a viewpoint.

If a Councilmember continues to violate decorum after a warning, the Presiding Officer may formally “name” the member, which shall be recorded in the minutes as a step toward potential censure or other disciplinary action consistent with these Rules.

Signs, banners, or displays that obstruct views, endanger safety, or distract from the orderly conduct of the meeting may be limited or removed at the Presiding Officer’s discretion, solely to preserve decorum.

If necessary to address disorderly conduct or safety concerns, the Presiding Officer may briefly order a recess without a motion or vote.

Section 6.4: Conflicts of Interest and Recusal

Councilmembers must disclose any conflict or potential conflict of interest on matters before the body. Disclosures must comply with the West Virginia Ethics Act (W. Va. Code §6B-2-5), including subsection (j) (Limitations on Voting). Members are advised to review the Ethics Act regularly.

The following guidelines apply:

- Members with a direct financial or personal interest must recuse themselves from discussion and voting.
- Recused members shall leave the chamber during debate and vote; recusal is recorded in the minutes only if the member leaves.
- For matters involving a nonprofit organization, members who are uncompensated officers or board members shall disclose the relationship but are not required to recuse themselves; compensated officers or board members must recuse.
- For matters involving a City board, commission, or authority, members who serve on that body shall disclose the relationship but are not required to recuse.

All disclosures and recusals shall be entered in the minutes.

Section 6.5: Public Communication and Representation

In all dealings with the public, elected officials shall make clear that they speak only for themselves unless expressly authorized by a majority vote of Council to speak on behalf of Council or the City.

Elected officials shall not negotiate the terms of or enter into contracts, agreements, or commitments on behalf of the City unless specifically authorized by Council.

Members shall refrain from abusive conduct or personal attacks on other members, City officers or employees, members of City boards or commissions, and members of the public.

Section 6.6: Duties of the Presiding Officer

During meetings, the Presiding Officer shall:

- Preserve order and decorum and exercise general supervision over the proceedings;
- Guide and direct the meeting in accordance with these rules;
- Recognize members entitled to the floor and rule on procedural questions;
- Decide all points of order, subject to appeal;
- Put to a vote all questions that are properly moved or that otherwise arise.

The Presiding Officer may participate in debate without relinquishing the chair.

Section 6.7: Question of Privilege

A Question of Privilege allows a council member to raise an urgent matter that affects the rights, reputation, dignity, or comfort of the Council or its members. The purpose of this motion is that it essentially permits an “interruption” that would not otherwise be allowed under parliamentary rules—for example, when a member has already spoken the maximum number of times, when another member has the floor, when a motion would normally require recognition, or when a rule gives another member priority to speak.

A Question of Privilege may be raised at any time, except while a vote is in progress. The Presiding Officer will determine whether the issue meets this standard and whether it should be addressed immediately before returning to the pending business.

Here are some examples of situations that might justify raising a Question of Privilege:

- **Rights:** A member states that they cannot hear the discussion because the microphone is off, or that meeting rules (such as time limits) are not being applied consistently.
- **Reputation:** A member asserts that an inaccurate or personally damaging statement has just been made about them and needs to be corrected immediately for the record.
- **Dignity:** A member objects to disorderly conduct, disrespectful language, or personal attacks occurring in the chamber.

- **Comfort:** A member notes that the room temperature is uncomfortable, that noise outside the chamber is preventing members from hearing proceedings, or that a physical accessibility issue needs immediate correction.

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ARTICLE VII – AMENDMENTS, AUTHORITY, AND INTERPRETATION

Section 7.1: Amendment of Rules

These Rules may be amended, repealed, or supplemented by Council using the same procedure required for adopting resolutions. (See Section 7.4 for procedures concerning temporary suspension of the Rules.)

Any proposed amendment must be introduced in writing and placed on the agenda in accordance with rules governing legislative action.

Section 7.2: Parliamentary Authority

Where these Rules are silent, Council shall refer to the adopted parliamentary authority.

Unless otherwise designated by ordinance or resolution, the default authority is:

Robert's Rules of Order, Newly Revised (latest edition)

The Presiding Officer may consult the parliamentary authority and issue a ruling, which is subject to appeal and may be overturned by majority vote.

Section 7.3: Interpretation

In the event of ambiguity or conflict within these Rules, interpretation shall follow the hierarchy below:

- The Constitution and statutes of the United States;
- The Constitution and statutes of West Virginia;
- The municipal Charter;
- Adopted ordinances of the municipality;
- Adopted resolutions of the municipality;
- These Rules of Procedure;
- The parliamentary authority designated in Section 7.2.

Nothing in these Rules may be construed to supersede Federal law, State law, court rulings, or binding interpretations issued by the West Virginia Ethics Commission.

Section 7.4: Suspension and Noncompliance

These Rules, or any portion thereof, may be temporarily suspended by majority vote, provided the suspension does not violate any statutory requirement, Charter provision, or ordinance.

If the Presiding Officer proposes to suspend a rule and no member objects, the Presiding Officer may declare the rule suspended.

A suspension applies only to the matter under immediate consideration and does not extend to other agenda items unless explicitly stated.

A violation of these Rules does not, by itself, invalidate Council action unless the violation also constitutes a breach of City, State, or Federal law, City Charter requirements, or due process rights.

Nothing in this section excuses noncompliance with the Open Meetings Act or other mandatory legal standards.

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APPENDIX A: GLOSSARY OF PARLIAMENTARY TERMS

Adjourn – To terminate a meeting officially.

Adopt – To approve or give effect to an item, such as a motion or ordinance.

Adopt a report – To formally accept a report. Adoption commits the Council to everything included in the report.

Affirmative vote – A “yes” vote to a question before the Council. Signifies agreement to its acceptance.

Agenda – The official list of business to be considered at a meeting.

Amend – To change a motion or document by adding, deleting, or substituting words or provisions.

Annul – To void or cancel an action previously taken.

Appeal – A request that a ruling of the Presiding Officer be submitted to Council for a vote.

Debatable – Capable of being discussed.

Division of the Body – A request for a more precise count of votes when the outcome of a voice vote is unclear. Often done by show of hands.

Division of Question – Separation of a motion into parts that may each be voted on independently.

Unanimous Consent – A method of passing routine or favored items without objection. Also called “general consent.”

Incidental motions – Motions related to procedure, order, or questions arising out of other motions.

Lay on the Table – To postpone a motion temporarily, with the intent to resume later during the same meeting.

Limit Debate – To restrict the time or number of speakers on a motion.

Main Motion – A principal proposal for Council to debate and decide.

New Business – Items introduced for consideration that are not left-over from a prior meeting.

Object to Consideration – A motion to prevent debate or vote on a main motion.

Order of Business – The sequence in which agenda items are considered.

Orders of the Day – The agreed-upon agenda or order of business. A member may “Call for the Orders of the Day” to require the Council to return to the set agenda if debate has strayed.

Ordinance – A law adopted by the municipal governing body.

Pending Question – A motion or issue currently under consideration but not yet decided.

Postpone to a Time Certain – To defer consideration of a motion to a specific later date or time.

Postpone Indefinitely – To kill a motion without a direct vote on its content.

Postpone Temporarily – See “Lay on the Table.”

Precedence – The established priority among types of motions when multiple motions are on the floor.

Presiding Officer – The individual charged with conducting the meeting, usually the Mayor.

Privileged Motions – High-priority motions that must be addressed before others (e.g., to adjourn or raise a question of privilege).

Question of Privilege – A request or motion relating to the comfort, dignity, or rights of Council or individual members.

Reconsider – A motion to revisit and potentially reverse a previously decided motion.

Refer to Committee – To delegate a matter to a group for investigation or recommendation.

Resume Consideration – To return to a motion that was previously laid on the table.

Ad-Hoc or Special Committee – A temporary committee formed for a specific task or issue.

Special Meeting – A non-regular meeting convened for a specific agenda item(s) stated in advance.

Standing Committee – A permanent committee with continuing responsibility for certain matters.

Unfinished Business – Items from a prior meeting that were postponed or not resolved.

Viva Voce Vote – A voice vote, with decisions based on the volume of “ayes” and “noes.”

Previous Question (Call the Question) – A motion to close debate and proceed to an immediate vote.

Withdraw – A request by the maker of a motion to remove it from consideration.

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APPENDIX B: Guide to Motion Practice and Procedure

This Appendix provides a practical reference for Councilmembers and the Presiding Officer in handling motions.

Sec. B-1. Generally.

- (a) The business of a meeting is carried on by means of motions. In a broad sense a motion is a formal statement of a proposal for the Council to consider and vote upon.
- (b) It is well to become familiar with the steps of handling a motion and with their phraseology. Only after these mechanics of a motion become second nature, can a person concentrate on the content of the motion.
- (c) The following are the steps in handling a motion:
 - 1. A member seeks recognition from the Presiding Officer.
 - 2. The Presiding Officer recognizes the member.
 - 3. The member makes the motion.
 - 4. Another member seconds the motion, without the need to be recognized.
 - 5. Presiding Officer states the motion to the Council in the exact form as made by the moving member.
 - 6. Members may discuss the motion, if debatable. Debate normally begins with the maker of the motion.
 - 7. The Presiding Officer puts the motion to a vote.
 - 8. The Presiding Officer announces the result.

Sec. B-2. Addressing the Presiding Officer.

Any member of the Council may propose a motion. The member may do this at any appropriate time whenever there is no person actively engaged in speaking. In most cases, it is out of order to interrupt a speaker. To present a motion, a member first addresses the presiding officer by official title. Addressing the chair is equivalent to requesting permission to present a motion or to discuss a motion already presented.

Sec. B-3. Recognition by the Presiding Officer.

The Presiding Officer recognizes a member by calling the member by name, or by nodding to the member, or by designating the member in some other way. As soon as the Presiding Officer recognizes a member, that member is entitled to the undivided attention of the body while the member proposes or discusses a motion.

Sec. B-4. Form of Motions.

A motion is a proposal that the Council take certain action or express certain sentiments. It is always stated in the form: “I move ...,” followed by the proposal to be considered. Motions should always be worded in the affirmative, to avoid confusion. An occasional brief remark may introduce the motion, but no discussion or debate is in order until the motion has been seconded and stated by the Presiding Officer.

If discussion is needed before a motion can be formulated, a member may move that the subject be discussed informally.

Sec. B-5. Second to the Motion

- (a) After a member has proposed a motion, it is then in order for another member to *Second the Motion*. The member seconding the motion may, without the need to be recognized by the Presiding Officer say: “I second the motion.” If the Presiding Officer does not hear a second to a motion, the Presiding Officer should ask, “Is there a second to the motion that ...” and repeat the motion, since it may be that some of the members have not understood its meaning. If no second is forthcoming, the Presiding Officer declares the motion “lost for want of a second.”
- (b) Seconding a motion simply means that the seconder wishes to have the motion presented to the Council for consideration. It does not necessarily imply that the seconder favors the motion or intends to vote for it. The requirement of a motion and a second is based on the belief that at least two (2) members should be interested in the discussion of a proposition before a motion is presented to the body.
- (c) Routine motions, such as approving the Minutes, are frequently stated by the Presiding Officer without waiting for a second, unless some member objects. This is a form of *Unanimous Consent*. If any member objects, the Presiding Officer must call for a second. Note: Unanimous Consent must not be used when state law requires a recorded vote of each member to be entered in the minutes.

Sec. B-6. Stating the motion by the Presiding Officer.

- (a) As soon as a motion has been properly moved and seconded, it is the duty of the Presiding Officer to state the motion promptly to the body. The Presiding Officer must state the motion in the exact form that was used by the maker of the motion. Until the Presiding Officer has stated the motion, the motion is under the control of its maker and can be withdrawn or modified by the maker as the maker wishes. Once the motion has been stated to the Council, it is in the possession of the body to do with it as it chooses.
- (b) If a motion is proposed in a form which is misleading, vague, or overly complicated, it is the duty of the Presiding Officer to request the member to rephrase the motion or to assist the member in making the motion clearer. If the Presiding Officer assists in rephrasing the motion, the Presiding Officer should make sure that the meaning of the motion is not changed. The Presiding Officer should ask the member whether the rephrased motion, as stated to the body, expresses the proposal correctly.
- (c) If a motion proposes action which is contrary to law, or ordinance, or if it is obviously dilatory (that is, made for the purpose of delaying business) or is completely unsuitable for the consideration of the body, the Presiding Officer should rule it out of order. The Presiding Officer may say, “The chair rules your motion out of order,” and state the reason for so doing.

Sec. B-7. Debate and Discussion.

The Councilor making a motion shall be recognized first in debate and shall have the privilege of closing debate unless debate is closed earlier by the motion *Previous Question*. A member obtains the floor to debate a motion in the same manner as the member does to propose a motion. Once a member has been recognized for the purpose of debating a motion, the member must be protected in the member's right to speak, so long as the member observes the rules of decorum and confines remarks to the subject of the motion. A Councilor having been recognized shall not be interrupted except to call the Councilor to order. If called to order, the Councilor shall cease speaking until the *Point of Order* is decided, after which debate may proceed. Debate is restricted to the measure under consideration and neither its proposer nor the proposer's motives can be discussed. The rules of debate require that all discussion be impersonal and that it be addressed through the presiding officer.

Sec. B-8 Voting on motion.

When it appears that all members who wish to discuss the question have done so the Presiding Officer may inquire: "Is there any further discussion?" or, "Are you ready for the vote?" This query gives notice that debate is about to close and that if any member wishes to claim the floor, the member should so do immediately. If no one claims the floor, the Presiding Officer, after a pause, puts the question to a vote in its final form after any adopted amendments have been incorporated into the motion. The Presiding Officer will then conduct the vote. The announcement of the vote by the Presiding Officer is the last step in the production line which has carried the motion from its introduction by an individual member to its disposal by vote of the Council.

Sec. B-9. Precedence and classification.

(a) The rank of motions, which is called "precedence," keeps the business of the meeting going with easy efficiency, and every motion is attended to in its proper turn. The order of precedence of motions is based on the degree of their urgency, and it is logical and easy to understand. The following is a list of the more important motions, arranged in descending order of precedence:

- a. *Adjourn.*
- b. *Recess.*
- c. *Question of Privilege.*
- d. *Lay on the Table.* ("Postpone temporarily".)
- e. *Previous Question.* ("Vote immediately".)
- f. *Limit or Extend Debate.*
- g. *Postpone to a Time Certain.*
- h. *Refer to Committee.*
- i. *Amend.*
- j. *Postpone Indefinitely.*
- k. *The Main Motion.*

(b) Motions are classified as follows:

- (1) Main motions. This group is made up of motions which bring subjects (as contrasted with procedural questions) before the body for decision. These motions constitute the principal business of a meeting. They are the most important of all motions because once adopted, they become the official statements of the Council.
- (2) Subsidiary motions. This group is made up of seven (7) motions which are alternative methods of changing or disposing of the main motion. Their name derives from the fact that they are subsidiary to the main motion, and, therefore, can be proposed only when a main motion is before the Council. If a main motion is pending and some members do not wish to vote on it directly at the time, they have several choices as to how the motion may be modified or resolved. For example, a member may believe that it is an unsuitable motion for the body to consider and may move to object to consideration of the question. Another may think that the motion should be changed so that it conforms more nearly to the ideas of the body and may move to amend it. The recognized subsidiary motions are:

- a. *Lay on the Table.*
- b. *The Previous Question.*
- c. *Limit or Extend the Limit for Debate.*
- d. *Postpone to a Time Certain.*
- e. *Commit or Refer.*
- f. *Amend.*
- g. *Postpone Indefinitely.*

- (3) Incidental motions. The motions of this group arise incidentally out of the business which is before the body. In general, they are concerned with the rights and privileges of members and procedures of the Council. They have only a few characteristics in common. The purpose of this group of motions is to handle procedural problems which arise out of the consideration of other questions. These problems, naturally, must be settled before consideration can be given to the question out of which they arise.

Incidental motions are not included in the list of precedence because they may be proposed at any time and must be decided whenever they arise. Therefore, they present no problem of precedence. The important incidental motions are:

- h. *Appeal.*
- i. *Point of Order.*
- j. *Parliamentary Inquiry.*
- k. *Suspend the Rules.*
- l. *Withdraw a Motion.*
- m. *Object to Consideration.*
- n. *Division of a Question.*
- o. *Division of the Body.*

These are just some examples. Many additional motions may arise incidentally during the discussion of another motion.

(4) Privileged motions. This small group is composed of motions which are so important that they are given privileges not accorded to other motions. They are, in effect, main motions which, because of their urgency, must be decided before the pending question. They relate to the members and to the board rather than to the main motion. Privileged Motions include:

- a. *Fix the Time to which the Body shall Adjourn.*
- b. *Adjourn.*
- c. *Take a Recess.*
- d. *Raise a Question of Privilege.*
- e. *Call for the Orders of the Day.*

(c) The chief purpose of dividing motions into four (4) groups is to determine their rank or precedence. This rank is fixed and definite and is based on logical reasoning. There are two (2) important rules of precedence:

1. When a motion is pending, any motion of a higher rank may be proposed, but no motion of lower rank is in order. The motion to adjourn has the highest rank, and a main motion has the lowest. If a main motion is pending, any motion of higher rank can be proposed. If a motion to refer to committee is pending, the motions listed in paragraphs (a)(1) through (a)(7) of this section can all be proposed, but a motion to amend or to postpone indefinitely cannot.
2. Motions are considered and voted upon in inverse order to the order of their proposal, the last one proposed being considered and disposed of first.

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This quick-reference chart is provided for convenience and summarizes common motions under Rules and Robert's Rules of Order. In case of conflict, these rules and their adopted parliamentary authority control.

To Do this:	You Say This...	May You Interrupt the speaker?	Needs Second?	Is it Debatable?	Is it Amendable?	Vote Required	Can it be Reconsidered ?
Adjourn the meeting	"I move to adjourn."	No	Yes	No	No	Majority	No
Take a short break	"I move to recess for [time]."	No	Yes	No	Yes	Majority	No
Complain about heat or noise	"I rise to a question of privilege."	Yes	No	No	No	No vote	No
Temporarily set aside business	"I move to lay the matter on the table."	No	Yes	No	No	Majority	No
End debate and vote now	"I move the previous question."	No	Yes	No	No	2/3	Yes
Limit or extend debate	"I move to limit [or extend] debate to..."	No	Yes	No	Yes	2/3	Yes
Postpone to a later time	"I move to postpone the matter to ____"	No	Yes	Yes	Yes	Majority	Yes
Refer to a committee	"I move to refer the matter to the Committee"	No	Yes	Yes	Yes	Majority	Yes
Change the wording of a motion	"I move to amend the motion by..."	No	Yes	Yes	Yes	Majority	Yes
Kill the motion without direct vote	I move to postpone the matter indefinitely.	No	Yes	Yes	No	Majority	Yes
General Motion for Business	"I move that..."	No	Yes	Yes	Yes	Majority	Yes
Motions Listed Above are in Order of Precedence							
Point out a rule breach	"Point of order!"	Yes	No	No	No	Chair rules	No
Appeal a ruling by the chair	"I appeal the decision of the chair."	Yes	Yes	Yes	No	Majority	Yes
Ask about procedure	"Parliamentary inquiry!"	Yes	No	No	No	No vote	No
Suspend a rule	"I move to suspend the rules so that..."	No	Yes	No	No	2/3	No
Withdraw your motion	"I wish to withdraw my motion."	No	No	No	No	Majority	No
Object to something improper	"I object to consideration of this motion."	Yes	No	No	No	2/3	Yes
Split a motion into parts	"I move to divide the question."	No	Yes	No	No	Majority	No
Require a counted vote	"I call for a division of the body."	Yes	No	No	No	Chair counts	No
Return to the agenda	"I call for the Orders of the Day."	Yes	No	No	No	No vote	No
Set a time to adjourn	"I move to fix the time to which to adjourn."	No	Yes	No	Yes	Majority	Yes
Take up an item tabled earlier	"I move to take [item] from the table."	No	Yes	No	No	Majority	No

Sec. B-10. Reconsideration

The purpose is to permit the Governing Body to reconsider a vote on previous action. The reconsideration of a negative vote on final action is as proper as reconsideration of a favorable vote. Here are some general considerations about this motion.

- a. The motion to *Reconsider* may be made at the same meeting or a subsequent meeting. However, certain rules apply as appropriate under the circumstances.
- b. The motion to *Reconsider* must be made by a member who voted on the prevailing side.
- c. The motion to *Reconsider* is inappropriate after the action taken has gone into effect or after it is too late for any reason, to reverse the action taken.
- d. Whether a measure is reconsidered depends on whether the motion to *Reconsider* passes or fails.
- e. Should the motion to *Reconsider* pass, the item is immediately before the Governing Body to be acted upon or scheduled for hearing at a subsequent meeting.
- f. Should the motion to *Reconsider* fail, the item remains as adopted.
- g. Either the motion to *Reconsider* or notice of intent to reconsider must be made not later than the next regular meeting. A member of the Governing Body may indicate notice of intent to propose reconsideration either orally or in writing.

Effect of Reconsideration.

The effect of making the motion to *Reconsider*, or of giving notice of the motion, is to suspend all action on the subject of the motion until the reconsideration is acted upon.

Reconsideration at a subsequent meeting.

When notice is required for a question, the Governing Body shall comply with all rules requiring public notice.

If reconsideration will be taken up at a subsequent meeting, notice of intent will be placed on the agenda. The determination of reconsideration is dependent on the passage or failure of the motion to *Reconsider*.

Debate of Motion.

Debate on the motion to *Reconsider* will be limited to the merits of the reconsideration and not the merits of the question to be reconsidered.

Vote.

The passage of the motion to *Reconsider* requires a majority vote, even if the measure to be reconsidered requires a two-thirds vote.

Sec. B-11. Main Motion

A *Main Motion* presents an ordinance, resolution, or other proposition for passage, adoption, approval, or rejection. The question is usually stated in the positive form, “to pass”, “to adopt”, “to approve” “to confirm”, “to concur.”

A *Main Motion* must be seconded before debate can take place and only one *Main Motion* may be on the floor at a time. A Councilor may give brief explanatory comments before making the motion but must refrain from debate until the motion has been seconded and the member assigned the floor for debate by the Presiding Officer.. In the absence of a *Second*, the motion fails. *Main Motions* are debatable, amendable, and can be reconsidered after adoption.

Main Motions become the official recorded statement of an action taken by the Governing Body. A *Main Motion* should therefore be worded in a concise, unambiguous, and complete form appropriate to such a purpose.

A *Main Motion* should not be offered if its only effect is to propose that the body refrain from doing something since the same result can be accomplished by no motion at all.

Sec. B-12. Motion to Amend

Every amendment proposed must be relevant to the subject of the proposition.

1. A *Motion to Amend* takes precedence over the original *Main Motion* out of which it arises and must be voted upon before the original *Main Motion*.
2. After an amendment is adopted, the question as amended must be put to a vote.
3. Rejection of a *Motion to Amend* leaves the *Main Motion* worded as it was before the amendment was offered.
4. Form of amendments
 - i. Amendments should be offered in a concise, unambiguous and in a complete form of a motion.
 - ii. In form, amendments may be divided into the following types:
 - a. To add (that is to place at the end)
 - b. To insert
 - c. To strike out
 - d. To strike out and insert
5. Decision on amendments
 - i. An amendment, once adopted, may not thereafter at the same meeting be changed or modified, except upon *Reconsideration* of the vote by which it was adopted or by way of the *Motion to Amend Something Previously Adopted*.
 - ii. When a proposed amendment has been defeated, the same amendment may not be proposed again without first Reconsidering the vote by which the amendment was lost.
6. The Presiding Officer may require amendments to be submitted in writing.
7. Withdrawing Amendments and Accepting Modifications

- i. Amendments may be withdrawn by the maker before being seconded and stated by the Presiding Officer. After an amendment is seconded and stated by the Presiding Officer, it is in the possession of the Governing Body and be withdrawn only with the consent of the Governing Body.
 - ii. The maker of an amendment may modify an amendment before it is seconded and stated by the Presiding Officer. After it is seconded and stated, it is in the possession of the Governing Body and can be modified only with the consent of the body. The Presiding Officer may put the question of modification without waiting for a motion, if there is no objection.
8. There is no such thing as a “Friendly Amendment.” So called “Friendly Amendments” are handled just like any other amendment.

Sec. B-13. Postpone to a Time Certain

The *Motion to Postpone To a Time Certain* defers action on a pending question to some definite, time, day, or meeting. When a question has been postponed to a certain time, it becomes an order of the day for that time. When the time to which a question has been postponed arrives and the question is taken up, it can be postponed again if the additional delay will not interfere with the proper handling of the postponed question. The *Motion to Postpone to a Time Certain* is debatable, amendable, and may be reconsidered.

Sec. B-14. Previous Question

Debate may be closed immediately by the motion *Previous Question*. The motion *Previous Question* may motivate *Unanimous Consent* to ending debate. Before *Previous Question* has been seconded, the Presiding Officer may ask if there is any objection to closing debate. If there is no objection, the Presiding Officer shall immediately call the question and order a vote on the matter as it currently stands with the Governing Body. If one member objects, the Presiding Officer shall ask if there is a second to the motion. If there is a second to the call, the Presiding Officer must immediately take a vote on whether to order the call for the question. The call for the question requires a 2/3 majority vote before the vote on the question to which applied. The *Previous Question* is neither amendable nor debatable and can be reconsidered.

Sec. B-15. Motion to Lay on the Table/ Take from the Table

Any measure before the Governing Body may be set aside temporarily when something else of immediate urgency has arisen or when something else needs to be addressed before consideration of the pending question. The *Motion to Lay on the Table* is not debatable, not amendable, and cannot be reconsidered.

A motion that has been laid on the table must be taken from the table and acted upon by the end of the next regular meeting; otherwise, the measure is considered lost and must be reintroduced if further action is desired.

The *Motion to Take from the Table* is to bring back before the Governing Body a question that has previously been laid on the table. The *Motion to Take from the Table* is not debatable, not amendable and cannot be reconsidered.

Sec. B-16. Point of Order

Any Councilor or the Presiding Officer may call attention to violations of the rules or a mistake in procedure by rising to a *Point of Order*. The Presiding Officer may permit a brief explanation from the member raising the Point of Order before ruling on the claim and may submit the question to the Governing Body for decision by a majority vote. The Presiding Officer is not required to decide any *Point of Order* not directly presented in the proceedings of the body. Such an assertion does not require a second, is not debatable nor amendable and cannot be reconsidered. Every member of the Governing Body has a responsibility to require adherence to these rules by fellow governing body members.

Sec. B-17. Questions of Privilege – Examples

Example 1 – Comfort:

A Councilmember raises a Question of Privilege to request that the chamber air conditioning be adjusted because the room temperature is too high for comfort.

Example 2 – Noise Disruption:

A Councilmember raises a Question of Privilege to ask the Presiding Officer to close the door to the meeting room because hallway noise is disrupting debate.

Example 3 – Protection of Reputation:

A Councilmember may raise a Question of Privilege if personal comments made during debate unfairly attack their motives or integrity. The Presiding Officer may require the remarks to be withdrawn.

Example 4 – Audio Clarity:

A Councilmember raises a Question of Privilege to ask that a speaker repeat their remarks more clearly or speak into the microphone so everyone can hear.

Sec. B-18. Division of the Question

When a motion contains two or more independent parts that can stand alone, any member may move to divide the question so that each part may be considered and voted on separately.

Key points:

- Must be seconded.
- Not debatable or amendable.
- The Presiding Officer decides if division is appropriate.

Example:

“Madam Mayor, I move to divide the question so that the funding proposal is voted on separately from the policy statement.”

Sec. B-19. Division of the Body

If the result of a voice vote is unclear, any member may call for a “Division of the Body” to require a counted vote by show of hands.

Example:

“Madam Mayor, I call for a division.”

The Presiding Officer then directs members to stand or raise hands for an accurate count.

Sec. B-20. Call for the Orders of the Day

Any member may interrupt proceedings to demand that the Council return to the approved agenda if debate has strayed.

Example:

“Mr. Mayor, I call for the Orders of the Day.”

If there is no objection, the Council resumes the next item in the order of business.

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APPENDIX C: Presiding Officer Scripts & Speaking Guide

Purpose and Importance

Addressing all remarks through the Presiding Officer (typically the Mayor) is a fundamental rule of order in public meetings. This standard promotes civility, fairness, and professionalism by preventing direct, personal exchanges between members. It ensures that discussion is issue-focused, not personality-driven, and helps avoid disruption, disorder, or confrontational debate.

This practice:

- Prevents personal attacks by requiring all remarks to flow through the chair,
- Maintains structure by giving the Presiding Officer control over who speaks and when,
- Encourages mutual respect even in disagreement,
- Protects impartiality of the debate process.

By following this simple principle—always direct your comments to the Presiding Officer - members help uphold the dignity and order of the council.

The examples that follow illustrate how the Presiding Officer may handle common and less common motions under these Rules, including requests for Unanimous Consent and procedural corrections that may arise during debate.

Common Examples

1. Approving Minutes

“Mr. Mayor, I move to approve the minutes of the June 15 meeting.”

2. Adjourning the Meeting

“Madam Mayor, I move to adjourn.”

3. Responding to a Colleague’s Comment (Indirectly)

“Mr. Mayor, I’d like to respond to the concerns raised by the Councilmember from Ward 4.”

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4. Seeking Clarification from Staff

“Madam Mayor, could we ask the Public Works Director to clarify the current status of the project timeline?”

5. Moving to Amend a Motion

“Mr. Mayor, I move to amend the motion by changing the implementation date to October 1.”

6. Calling the Question (Ending Debate)

“Madam Mayor, I move the previous question.”

(This is a motion to end debate and proceed to vote.)

7. Raising a Point of Order

“Mr. Mayor, point of order: discussion is currently off-topic and should be confined to the motion on the floor.”

Example Script: Mayor Calling A Member To Order

If a member speaks out of turn, makes personal remarks, or fails to address the Presiding Officer, the Presiding Officer should act promptly but respectfully to restore order. Here’s a sample script:

Councilmember (interrupting or speaking directly to another member):

“You always block projects like this, and you’re doing it again!”

Mayor:

“Councilmember, you are out of order. All remarks must be addressed through the Chair. Please direct your comments to me and refrain from personal remarks.”

(If behavior continues, the Presiding Officer may issue a warning or call for a motion to censure.)

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Example Script: Presiding Officer Addressing a Speaker Who Exceeds Time or Becomes Disruptive

Member of the Public (after 5 minutes):

“And why haven’t any of you done anything about this yet? Are you even listening? What are you hiding?”

Mayor:

“Sir/Ma’am, your five minutes have expired.”

(If the speaker does not yield the floor)

Mayor (firm tone):

“I’m going to remind you that public comment is limited to five minutes. This is not a question-and-answer session. If you have additional comments, you may submit them in writing to the Clerk. Please return to your seat so we may proceed with the meeting.”

(If the speaker continues to interrupt or refuse to stop)

Mayor:

“You are now out of order. If you do not yield the floor, you may be asked to leave. We value public input, but we must maintain respectful and orderly proceedings.”

(If the behavior escalates further, the Mayor may call a recess or direct security, if applicable.)

At the beginning of public comment period, the Mayor may also state:

“Each speaker is allotted five minutes. Please direct your comments to the Council as a whole through the Chair, and note that this is not a time for back-and-forth dialogue. We welcome your input, and we ask that all speakers respect the time limit and decorum of this meeting.”

Example Script: Motion To Limit Debate

Context: Council is discussing a proposed ordinance, and discussion is dragging on. A Councilmember wants to limit debate to 10 minutes total, with no member speaking more than once for 2 minutes.

Councilmember 1:

“Mr. Mayor, I move to limit debate on the pending motion to ten (10) minutes total, with each member limited to one (1) two-minute comment.”

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Councilmember 2:

“I second the motion.”

Mayor:

“There’s a motion to limit debate to ten minutes total, and to limit each member to one two-minute comment. This motion is not debatable. All those in favor, say ‘Aye.’

[Pause for vote]

All those opposed, say ‘No.’”

[If motion passes:]

Mayor:

“The motion to limit debate is adopted. Total debate time is now limited to 10 minutes, and each Councilmember may speak once for up to 2 minutes.”

[If motion fails:]

Mayor:

“The motion to limit debate has failed. We return to regular discussion on the main motion.”

Notes:

- This is a subsidiary motion (it modifies the rules for the main motion on the floor).
- Not debatable—goes straight to a vote.

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Example Script – Division of the Question

Councilmember:

“Mr. Mayor, I move to divide the question so the funding proposal and the policy statement are voted on separately.”

Mayor:

“There is a motion to divide the question. Is there a second? [Pause]

Hearing a second, I find the parts are sufficiently distinct and will be handled separately. Debate will proceed on Part One first.”

Example Script – Division of the Body

Councilmember:

“Madam Mayor, I call for a division of the body.”

Mayor:

“Division of the body has been requested.

All those in favor, please raise your hand.”

[Count]

“All those opposed, please raise your hand.

The vote is __ in favor, __ opposed.”

Example Script – Call for the Orders of the Day

Councilmember:

“Mr. Mayor, I call for the Orders of the Day.”

Mayor:

“The Orders of the Day have been called.

Without objection, we will return to the agenda.

[Pause for objection]

Hearing none, we will proceed to the next scheduled item, which is ___.”

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(If there is an objection, the Mayor should note that a 2/3 vote is required to set aside the agenda.)

Example Script: Using Unanimous Consent

Unanimous Consent is a quick way to handle routine or noncontroversial actions without a formal motion or vote, if no one objects.

Example 1 – Approving Minutes Quickly

Mayor:

“Are there any objections to approving the minutes as distributed? [Pause]

Hearing none, the minutes are approved.”

Example 2 – Changing the Order of Business

Mayor:

“Without objection, we will move Item 8 ahead of Item 7 to accommodate the presenter’s schedule. Is there any objection? [Pause]

Hearing none, we will proceed with Item 8 next.”

Example 3 – Adopting a Routine Consent Calendar

Mayor:

“If there is no objection, the Consent Calendar will be adopted as presented. [Pause]

Hearing none, the Consent Calendar is adopted.”

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Appendix D: Standing Committees Role Descriptions

Finance Committee

Charter authority: “Recommend an annual budget to Council. Supervise budget management and make reports to Council. Review and propose to Council municipal debt instruments and grants. Make fiscal forecasts and report same to Council.”

Core Role

Fiscal stewardship of the City. The Finance Committee focuses on **money, funding mechanisms, and financial sustainability**, not programs and policy except as it affects finances.

Instruments That Should Originate Here

- **Budgets** (annual and amended) and **budget revisions**
- **Legislative actions** authorizing:
 - Municipal debt (bonds, notes, leases)
 - Grant applications and grant acceptances
 - Funding requests
- **Financial policies**, including:
 - Reserve policies
 - Debt management policies
 - Investment policies
- **Reports and forecasts** transmitted to Council

Examples

- Annual General Fund budget
- Grant acceptance resolutions
- Building Commission financing resolutions
- Multi-year financial forecasts

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Rules and Ordinances Committee

Charter authority: Consider and propose to Council new and amended ordinances, rules, and policies.

Core Role

Custodian of the City's **legislative code and governing rules**. This committee focuses on matters that require **formal lawmaking**, significant policies, or other changes to the legal framework under which the City operates.

Instruments That Should Originate Here

- **Ordinances**, including:
 - New ordinances
 - Amendments to the City Code
- **Resolutions** that:
 - Adopt internal rules and policies (other than financial or personnel policies)
 - Establish procedures or regulatory frameworks
- **Public-facing policies** intended to have general applicability (e.g., parking rules for city-owned public parking)

Examples

- Changes or additions to city laws
- Ethics policies, procurement policies, fee schedules
- Council rules

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Municipal Properties Committee

Charter authority: Monitor and report to Council on the condition of and proposed plans for city buildings, real estate, and rights-of-way. Review and propose to Council capital investment in buildings, real estate, and associated infrastructure.

Core Role

Oversight of the City's **physical assets and public realm**. This committee is strategic and prospective, focusing on **planning, condition, and capital investment**, rather than regulatory rules.

Instruments That Should Originate Here

- **Resolutions** related to:
 - Capital projects
 - Master plans or studies
 - Use or disposition of City property
- **Policy recommendations** related to:
 - Asset management
 - Facilities planning
 - Utilization of public spaces
- **Requests for studies or professional services** tied to infrastructure or public space
- [City Code §93.070](#) also assigns specific duties to the Municipal Properties Committee concerning requests to abandon and vacate unopened streets and alleys.

Examples

- Streetscape improvement plans
- Parking or traffic studies
- Sidewalk, road, or right-of-way improvement initiatives
- Building renovation plans
- Long-range facilities planning

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Public Safety Committee

Charter authority: Monitor and report to council on the activities of, condition of and proposed plans for municipal public safety assets, including police, fire, and emergency services. Review and propose to Council capital investment in public safety equipment and infrastructure.

Core Role

Oversight of **operational readiness, policy direction, and capital needs** of police, fire, and emergency services.

Instruments That Should Originate Here

- **Resolutions** authorizing:
 - Capital purchases for public safety
 - Mutual aid agreements
 - Public safety grants
- **Policy recommendations** related to:
 - Public safety operations
 - Emergency response frameworks
- **Reports** to Council on departmental condition and needs

Examples

- Police vehicle or equipment purchases
- Fire station or apparatus investments
- Emergency management planning initiatives

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Personnel Committee

Charter authority: Review and propose to Council employment policies, including employee compensation and benefits and an employee handbook. Review applications for primary staff positions recommended by the Mayor and make hiring recommendations to Council.

Core Role

Governance of the City as an employer. Focuses on **workforce policy, structure, and senior staffing.**

Instruments That Should Originate Here

- **Resolutions** adopting or amending:
 - Compensation plans
 - Benefits structures
 - Personnel policies
- **Policy documents**, including:
 - Employee handbook
 - HR policies
- **Hiring recommendations** to Council for primary staff positions

Examples

- Classification and compensation plans
- Health insurance plan changes
- HR policy revisions
- Appointment of administrative officers

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Appendix E: City Council Rule On Executive Sessions

The Elkins City Council adopted the following rule via Resolution 1551, on July 28, 2022.

Introduction

The Common Council of the City of Elkins (“City Council”) and its Standing and Ad Hoc Committees (“Committees”) conduct public meetings pursuant to the West Virginia Open Governmental Proceedings Act, as codified at *W.Va Code §6-9A-1 et seq.* (“OGPA”), including by holding portions of such meetings in executive session closed to the public pursuant to *W.Va. Code §6-9A-4*. This City Council Policy (the “Policy”) establishes the rules for conducting executive sessions of the meetings of City Council and Committees.

Rule

1. *Scope and application.* This Rule applies to public meetings held by City Council and Committees and to any and all executive sessions held within such meetings. This Rule is adopted in accordance with OGPA and consistent with Open Meetings Advisory Opinion 2022-01, adopted by the Open Governmental Meetings Committee of the West Virginia Ethics Commission on March 3, 2022. This Rule will be interpreted to be consistent with OGPA and applicable decisions of courts having jurisdiction over related matters. To the extent there is a conflict, or apparent conflict, between the provisions of this Rule and OGPA or binding judicial precedent, OGPA and the decisional law shall prevail over the provisions of this Policy.
2. *Definitions.* Terms used in this Rule, unless specifically defined otherwise in the Rule, have the meanings supplied OGPA.
3. *Executive Session Procedures.* City Council and Committees will conduct executive sessions in accordance with the following procedures:
 - a. Any matter on the public meeting agenda may be considered in executive session if permissible to do so under OGPA.
 - b. City Council and Committees will move into executive session only by majority vote of its members present at any public meeting.
 - c. The motion to enter executive session will identify the authority under OGPA for the executive session. This identification may be made by describing the purpose of the executive session – e.g., to consider matters affecting the acquisition or development of real estate – or by citing the specific portion of OGPA authorizing the executive session.
 - d. The executive session for City Council will include all members of City Council present except any member who is disqualified from participating by law or applicable rule or regulation, and any other persons City Council determines appropriate. The executive session for Committees will include

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only the members of the respective Committee present except any member who is disqualified from participating by law or applicable rule or regulation, and any other persons the Committees deem appropriate.

- e. No minutes nor any other record of the executive session will be made.
- f. Each person present in the executive session shall have a duty to maintain as confidential all matters discussed in the executive session, and no such person may disclose, or allow to be disclosed, the information addressed in executive session. Disclosure of the matters discussed in executive session may be made only in the following instances: (1) when City Council or Committees affirmatively act to permit such disclosure, and then only to the extent permitted by the City Council's or Committees' action and applicable law; and (2) when required by law.
- g. City Council or Committees will exit executive session by majority vote of the members present.
- h. The presiding officer of the City Council or the Committees shall record the motion and votes to enter and exit executive session, noting the time of each and the majority vote.

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CITY OF ELKINS AGENDA ITEM REPORT

Meeting Date:	March 2, 2026
Section:	New Business
Category:	Action Item
Agenda Item Name:	Short-term rentals
Recommended By:	City Clerk
Summary:	<p>The attached memorandum outlines a potential conflict between the City's current bed and breakfast zoning provisions and West Virginia Code §8-1-5a, which limits municipal authority to regulate the location, duration, and frequency of property rentals.</p> <p>The Committee is asked to review the memo and provide direction on whether the City's existing framework should be revised, repealed, or referred for further legal review.</p>
Fiscal Impact:	n/a
Recommendation:	Review and consider next steps
Attachments:	1. memo - short term rentals - 2026_02_27

MEMORANDUM

To: Rules and Ordinances Committee

From: City Clerk

Re: Bed and Breakfast Regulations and Possible Conflict with State Law

Date: February 27, 2026

This agenda item is intended to tee up a policy discussion about our current bed and breakfast regulations and whether they remain consistent with state law.

As you know, our City Code currently creates three categories of “bed and breakfast inns” to cover short-term rental uses.

- Bed and Breakfast Inn I
- Bed and Breakfast Inn II
- Bed and Breakfast Inn III

Each category has different operational characteristics, and each is treated differently depending on zoning district. In short, our code regulates where these uses may occur and under what conditions. That reflects a traditional zoning approach that distinguishes between residential uses and transient lodging and permits them differently in different districts.

However, West Virginia Code §8-1-5a provides the following:

“Municipalities may not prohibit or effectively limit the rental of a property, in whole or in part, or regulate the duration, frequency, or location of such rental, in whole or in part. A municipality may regulate activities that arise when a property is used as a rental: Provided, That such regulation applies uniformly to all properties, without regard to whether such properties are used as a rental: Provided, however, That nothing in this subdivision may be construed to prohibit a municipality from imposing a hotel occupancy tax as prescribed in §7-18-1 et seq. of this code.”

The potential issue is straightforward. Our existing bed and breakfast provisions regulate where certain short-term lodging uses may occur. If short-term rentals fall within the state statute’s reference to “rental of a property,” then regulating their location by zoning district could be viewed as regulating the “location” of a rental, which the statute appears to prohibit.

If they do not fall within this definition, I will note that, since adoption of our current bed and breakfast framework in 2022, there have been no conditional-use applications for these uses in Single Residential zoning districts, as would be required under that district’s rules.

That raises several questions for the Committee:

- Do our current bed and breakfast categories conflict with state law?
- Should we consider repealing or revising these provisions?
- If revisions are needed, what form should they take?

##



CITY OF ELKINS AGENDA ITEM REPORT

Meeting Date:	March 2, 2026
Section:	New Business
Category:	Action Item
Agenda Item Name:	Amendment of §71.53 (Parking in Downtown Alleys) to replace map with text description
Recommended By:	
Summary:	<p>City Code §71.53 (Parking in Downtown Alleys) prohibits parking within designated alleys "as shown on the map attached to the ordinance." Because the City's online code platform cannot easily display or embed maps, reliance on a mapped exhibit creates practical limitations for public access and clarity.</p> <p><u>§ 71.53 PARKING IN DOWNTOWN ALLEYS.</u> No person shall park a vehicle within an alley as shown on the map attached to Ord. 298, except when actually loading or unloading goods, wares or merchandise and then for period not to exceed 30 minutes.</p> <p>Therefore, it seems advisable to amend the ordinance to replace the map reference with a written boundary description. This would improve transparency and ensure the code is fully understandable in text form.</p> <p>One possible formulation would describe the area as:</p> <p style="padding-left: 40px;">"The area bounded and enclosed by Railroad Avenue, Randolph Avenue, John Street, Center Street, and Lohr Lane."</p> <p>This language is intended to account for the way the boundary line "cuts the corner" between John Street and Lohr Lane, which do not otherwise intersect. Inclusion of Center Street captures that segment and preserves the intended boundary reflected on the adopted map.</p> <p>The Committee is requested to consider whether this written description accurately reflects the mapped boundary and whether any additional refinement is needed before forwarding an amendment to Council for consideration.</p>



CITY OF ELKINS AGENDA ITEM REPORT

Fiscal Impact:	n/a
Recommendation:	Consider for recommendation to Council
Attachments:	1. Downtown On-Street Parking Map 2.24.22

