



**Meeting Location:**  
Council Chambers, 3<sup>rd</sup> Floor  
216 Prospect Street  
Port Orchard, WA 98366

**Contact us:**  
Phone (360) 876-4407  
[cityhall@portorchardwa.gov](mailto:cityhall@portorchardwa.gov)  
[www.portorchardwa.gov](http://www.portorchardwa.gov)

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**City of Port Orchard City Council  
Regular Meeting Agenda  
June 11, 2024  
6:30 p.m.**

Pursuant to the Open Public Meetings Act, Chapter 42.30 RCW, the City Council is conducting its public meeting in a hybrid format with options for in-person attendance in the Council Chambers at City Hall or remote viewing and participation via Zoom (link below). The meeting is streamed live on the City's YouTube channel, click [here](#).

**Remote access**

**Link:** <https://us02web.zoom.us/j/81091413572>

**Zoom Meeting ID:** 810 9141 3572

**Zoom Call-In:** 1 253 215 8782

**Guiding Principles**

- Are we raising the bar in all of our actions?
- Are we honoring the past, but not living in the past?
- Are we building positive connections with our community and outside partners?
- Is the decision-making process building a diverse, equitable, and inclusive community?

**1. CALL TO ORDER**

- A. Pledge of Allegiance

**2. APPROVAL OF AGENDA**

**3. CITIZENS COMMENTS ON AGENDA ITEMS**

*(This is an opportunity for citizens to address the City Council on agenda items that are not associated with a Public Hearing on this agenda. Comments are limited to **3 minutes**. Please approach the podium or raise your Zoom hand if viewing remotely and wait to be recognized by the Mayor. Then, state your name for the official record. If you are attending remotely by Zoom via telephone, enter \*9 from your keypad to raise your hand.)*

**4. CONSENT AGENDA**

*(Items listed are to be considered routine in nature and are grouped together in a single motion. A Councilmember may remove an item for separate consideration upon request. In the event of such request, the item is placed under Business Items.)*

**A. Approval of Vouchers and Electronic Payments**

**B. Approval of Payroll and Direct Deposits**

**C. Adoption of a Resolution Declaring Certain Personal Property as Surplus and Authorizing its Disposition Thereof (Wallace) Page 4**

**D. Approval of an Updated Memorandum of Understanding for the Kitsap Critical Incident Response Team (KCIRT) (M. Brown) Page 9**

**E. Approval of an Alternative Location for City Council Meetings for June, July, August, and September 2024 due to City Hall Renovation Project (Archer) Page 37**

**5. PRESENTATION**

**6. PUBLIC HEARING**

*(Accepting public testimony from citizens limited to the specific item listed)*

**7. BUSINESS ITEMS**

- A. Adoption of an Ordinance Amending POMC Sections 10.12.460 and 10.12.500 Regarding Parking Regulation (Ryan) Page 41
- B. Adoption of an Ordinance Modifying POMC Chapter 2.04 Pertaining to City Council Meeting Rules of Procedure (Archer) Page 67
- C. Adoption of a Resolution Amending Resolution No. 030-16, Pertaining to the Rules Governing Public Comment at Council Meetings (Archer) Page 88
- D. Approval of an Agreement with Kitsap County Consolidated Housing Authority, dba Housing Kitsap for 1406 Funding (Crocker) Page 95

**8. DISCUSSION ITEMS (No Action to be Taken)**

- A. Council Rules and Procedures (Archer) Page 106
- B. Bethel Phase I Blueberry to Salmonberry 60% Design (Ryan)

**9. REPORTS OF COUNCIL COMMITTEES**

**10. REPORT OF MAYOR**

**11. REPORT OF DEPARTMENT HEADS**

**12. CITIZEN COMMENTS ON ANY ITEM**

*(This is an opportunity for citizens to address the City Council on any items that are not associated with a Public Hearing on this agenda. Comments are limited to **3 minutes**. Please approach the podium or raise your Zoom hand if viewing remotely and wait to be recognized by the Mayor. Then, state your name for the official record. If you are attending remotely by Zoom via telephone, enter \*9 from your keypad to raise your hand.)*

**13. CITY COUNCIL GOOD OF THE ORDER**

**14. EXECUTIVE SESSION:** Pursuant to RCW 42.30.110, the City Council may hold an executive session. The topic(s) and the session duration will be announced prior to the executive session.

**15. ADJOURNMENT**

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**CITY COUNCIL ADVISORY COMMITTEES**

*(Three council members serve on the committee with staff to make collaborative recommendations about work product. Staff then prepares the items for full Council consideration based on the Committee’s discussion.)*

STANDING COMMITTEE	Date & Time	Location
Economic Development and Tourism	June 10, 2024; 9:30am – 2 <sup>nd</sup> Monday of the month	Remote Access
Utilities	June 11, 2024; 5:00pm – 2 <sup>nd</sup> Tuesday of the month	Remote Access
Finance	June 11, 2024; 4:00pm – 3 <sup>rd</sup> Tuesday of the month	Remote Access
Transportation	June 25, 2024; 4:30pm- 4 <sup>th</sup> Tuesday of the month	Remote Access

<b>Land Use</b>	TBD; 4:30pm – 3 <sup>rd</sup> Wednesday of the month	Remote Access
<b>Lodging Tax Advisory</b>	TBD 2024	Remote Access
<b>Sewer Advisory</b>	June 11, 2024; 3:00pm	Remote Access
<b>Outside Agency Committees</b>	Varies	Varies

ADA Requirements: In compliance with the Americans with Disabilities Act, if you need accommodations to participate in this meeting, please contact the City Clerk's office at (360) 876-4407. Notification at least 48 hours in advance of meeting will enable the City to make arrangements to assure accessibility to this meeting.

**REMINDER: Please silence all electronic devices while City Council is in session.**

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<p><b>Robert (Rob) Putaansuu</b>  <b>Mayor</b>  Administrative Official</p>	<p><b>Mark Trenary</b>  <b>Councilmember Position 1</b>  Finance Committee, <b>Chair</b>  Transportation Committee, <b>Chair</b>  KRCC  PSRC-alt</p>	<p><b>Jay Rosapepe</b>  <b>Councilmember Position 2</b>  Utilities/Sewer Advisory Committee, <b>Chair</b>  Land Use Committee, <b>Chair</b>  KEDA-alt</p>	<p><b>Scott Diener</b>  <b>Councilmember Position 3</b>  Land Use Committee  Transportation Committee  Kitsap Public Health District</p>
<p><b>Eric Worden</b>  <b>Councilmember Position 4</b>  Land Use Committee  Utilities/Sewer Advisory Committee  KRCC-alt</p>	<p><b>Heidi Fenton</b>  <b>Councilmember Position 5</b>  Utilities/Sewer Advisory Committee  E/D &amp; Tourism Committee  Transportation Committee</p>	<p><b>Fred Chang</b>  <b>Councilmember Position 6</b>  <b>(Mayor Pro-Tempore)</b>  E/D &amp; Tourism Committee  Finance Committee</p>	<p><b>John Morrissey</b>  <b>Councilmember Position At-Large</b>  Finance Committee  E/D &amp; Tourism Committee  Lodging Tax, <b>Chair</b>  Kitsap Economic Development Alliance  PSRC EDD-alt  Tim Drury  <b>Municipal Court Judge</b></p>
<p>Brandy Wallace, MMC, CPRO  <b>City Clerk</b></p> <p>Matt Brown  <b>Police Chief</b></p>	<p>Debbie Lund, CEBS SPHR SHRM-SCP  <b>Human Resources Director</b></p> <p>Nicholas Bond, AICP  <b>Community Development Director</b></p>	<p>Noah Crocker, M.B.A.  <b>Finance Director</b></p> <p>Denis Ryan, CPWP-M, CPRP  <b>Public Works Director</b></p>	



## **Agenda Staff Report**

Agenda Item No.: Consent Agenda 4C

Meeting Date: June 11, 2024

Subject: Adoption of a Resolution Declaring  
Certain Personal Property as Surplus and  
Authorizing its Disposition Thereof

Prepared By: Brandy Wallace, MMC  
City Clerk

**Summary:** Assets of the City that are no longer usable, are no longer of value to the City, or are surplus to City needs, may be removed from City ownership, sold, or in any other way disposed with a declaration of surplus by the City Council.

Staff are asking the Council to surplus two vehicles and various dive equipment, as they are no longer useful to the City. They are as follows:

- 2004 Ford VIC4D, VIN # 2FAHP71W84X102945;
- 2004 Ford VIC4D, VIN # 2FAHP71W54X102949;
- Two -MK-7 Buddy-Line – Portable Two Diver Air Intercom;
- Two – CR-4 Standard 4-wire Communications Rope; and
- Two – Divator Full Face Mask.

The vehicles were purchased from the general fund in 2005. The cars were removed from patrol duty at the end of their useful life and used as EVOC training cars. Because of the age and condition of the vehicles they were no longer useful in that capacity. The mechanic has accessed the vehicles and found that they are no longer running and not able to go to auction. The best method of disposal is to have them scrapped.

The dive equipment were purchased from the general fund in 2015. The equipment has been stored for several years, because the City doesn't have a dive team. The City relies on other government agencies to support any activity that would require diving. The agency that supports our city is Pierce County Sheriff's Office. It would be in the best interest of the City to supply this equipment to them, as they would be the agency to respond to an emergency situation requiring the assistance of divers.

The Finance department has estimated the items to be of no dollar value. These items were not acquired for public utility purposes; therefore, a public hearing is not required, pursuant to RCW 35.94.040(2).

Although the City's internal asset value is zero dollars, any monies from the sale of surplus property will be deposited into the Fund(s) which owned them. When disposal is to the general public through direct sale, sealed bid or auction, final determination of value shall be the highest responsible bid or offer. The City may transfer a surplus asset to another public agency upon written request and a determination that it is in the public interest. Staff will dispose the items in a manner that reflects the best interest of the City.

**Recommendation:** Staff is recommending adoption of a resolution declaring personal property as surplus and allowing for its disposition.

**Relationship to Comprehensive Plan:** N/A

**Motion for consideration:** I move to adopt a resolution declaring personal property, 2 vehicles and various dive equipment as described, as surplus and authorizing its disposition.

**Fiscal Impact:** Money received from the disposition of surplus items will be deposited into the Fund(s) of ownership.

**Alternatives:** Do not adopt.

**Attachments:** Resolution and Memos

**RESOLUTION NO. \*\*-24**

**A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON, DECLARING CERTAIN PERSONAL PROPERTY AS SURPLUS AND AUTHORIZING ITS DISPOSITION THEREOF.**

**WHEREAS**, certain personal property owned by the Police department of the City of Port Orchard has become surplus to the needs of the City; and

**WHEREAS**, the City Council desires to surplus two vehicles and various dive equipment, all belonging to the Police department, in the best interest of the City as they no longer useful; and

**WHEREAS**, the City Council has determined that the current asset value is zero dollars; and

**WHEREAS**, pursuant to RCW 35.94.040(2) these items were not acquired for public utility purposes, therefore a public hearing is not required; and

**WHEREAS**, the City Council has, pursuant to the requirements of POMC 1.30.020, considered the possible future requirements of the City, the present value of the personal property, the likelihood of locating a buyer, possible intergovernmental cooperation, and the general welfare of the citizens of Port Orchard in determining whether it is in the best interest of the City to dispose of such personal property; now, therefore,

**THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:**

**THAT:** Council declares the following vehicles and dive equipment belonging to the Police department as surplus:

- 2004 Ford VIC4D, VIN # 2FAHP71W84X102945;
- 2004 Ford VIC4D, VIN # 2FAHP71W54X102949;
- Two -MK-7 Buddy-Line – Portable Two Diver Air Intercom;
- Two – CR-4 Standard 4-wire Communications Rope; and
- Two – Divator Full Face Mask.

**FURTHER THAT:** Staff is instructed to dispose the items in a manner that reflects the best interest of the City.

PASSED by the City Council of the City of Port Orchard, SIGNED by the Mayor and attested by the City Clerk in authentication of such passage this 11th day of June 2024.

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Robert Putaansuu, Mayor

ATTEST:

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Brandy Wallace, MMC, City Clerk



# PORT ORCHARD POLICE DEPARTMENT

SERVICE • HONOR • INTEGRITY

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## MEMORANDUM

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**TO:** Gretchen Isakksson  
**FROM:** Matt Brown, Chief of Police  
**SUBJECT:** Surplus items  
**DATE:** May 28, 2024

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The police department would like to surplus the following vehicles:

Year	Make/Model	VIN
2004	Ford Crown Victoria	2FAHP71W84X102945
2004	Ford Crown Victoria	2FAHP71W54X102949

City mechanics have assessed both vehicles and determined they do not retain enough value to auction. The recommendation is to dispose of them as scrap.



## PORT ORCHARD POLICE DEPARTMENT

SERVICE • HONOR • INTEGRITY

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### MEMORANDUM

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**TO:** Gretchen Isakksson  
**FROM:** Matt Brown, Chief of Police  
**SUBJECT:** Surplus items  
**DATE:** June 6, 2024

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The police department would like to surplus the following items:

- 2 – MK-7 Buddy-Line – Portable Two Diver Air Intercom
- 2 – CR-4 Standard 4-wire Communications Rope
- 2 – Divator Full Face Mask

These items were originally purchased in 2015 for \$7,674.80.

The Port Orchard Police Department does not operate a public safety dive team, nor does any other public safety entity in Kitsap County. Therefore, these items have no value to the city. For incidents requiring the use of this type of specialized team, the Port Orchard Police Department relies upon the public safety dive team operated by the Pierce County Sheriff's Office.

Providing this equipment to the Pierce County Sheriff's Office in a government-to-government transfer increases their team's ability to effectively respond and provide a valuable service to this community.





## **Agenda Staff Report**

Agenda Item No.: Consent Agenda 4D

Meeting Date: June 11, 2024

Subject: Approval of an Updated Memorandum of Understanding for the Kitsap Critical Incident Response Team (KCIRT)

Prepared By: Matt Brown  
Chief of Police

**Summary:** The updated MOU reflects changes made to the current agreement covering the management and protocols of the Kitsap Critical Incident Response Team (KCIRT). This team is comprised of ten cooperative regional agencies: Bainbridge Island Police Department, Bremerton Police Department, Clallam County Sheriff's Office, Kitsap County Sheriff's Office, Port Angeles Police Department, Port Orchard Police Department, Poulsbo Police Department, Sequim Police Department, Shelton Police Department, and the Washington State Patrol. KCIRT is activated to pool resources when investigating in-custody deaths and other critical incidents that may be beyond the capabilities of individual member agencies.

The modifications to this agreement are in line with the state requirements for Independent Investigation Teams under WAC 139-12-030, also known as the Law Enforcement Training and Community Safety Act (LETCSA).

**Recommendation:** Staff recommends the Council approve the Mayor to sign the Memorandum of Understanding for the Kitsap Critical Incident Response Team.

**Relationship to Comprehensive Plan:** N/A

**Motion for consideration:** I move to approve the Mayor to sign the Memorandum of Understanding for the Kitsap Critical Incident Response Team.

**Fiscal Impact:** None.

**Alternatives:** Not authorize the MOU and provide additional guidance.

**Attachments:** KCIRT Memorandum of Understanding.

# Kitsap Critical Incident Response Team

INTERLOCAL COOPERATIVE AGREEMENT



This Interlocal Cooperative Agreement ("Agreement") is entered into by the undersigned under the authority of RCW 10.93.130 for the purpose of providing mutual investigative aid as described herein and shall supersede and replace any prior agreements. Each Participating Agency to this Agreement will be referred to individually as a "Party" and collectively as the "Parties".

**RECITALS:**

**WHEREAS**, the Washington Mutual Aid Peace Officers Powers Act is intended to facilitate Mutual Aid (defined below) and cooperative enforcement of the laws among general authority local, state, and federal agencies (RCW 10.93.001(1)); and

**WHEREAS**, the Parties utilizing this Agreement have previously mutually authorized each other to exercise police powers in their respective jurisdictions as evidenced by documents on file with the Washington Association of Sheriffs and Police Chiefs; and

**WHEREAS**, the State of Washington requires that investigations of officer-involved uses of deadly force be independent of the Involved Agency; and

**WHEREAS**, the Parties desire to execute this Agreement to establish the Kitsap Critical Incident Response Investigation Team ("KCIRT") subject to the terms and conditions of this Agreement

**NOW THEREFORE**, the Parties agree as follows:

**1. PURPOSE.**

The purpose of this Agreement is to establish a multi-agency independent investigative team that is available to participating agencies to independently investigate incidents involving a law enforcement officer or correctional officer and which result in death or great bodily injury to the officer or another. This includes incidents involving the use of deadly force by an officer, in-custody deaths and officer-involved collisions.

This Agreement is not intended as legal authority for the admissibility or non-admissibility of evidence developed in the course of an investigation. The provisions of this Agreement should not be used as the basis for the dismissal of any criminal charges arising from an investigation developed pursuant to this memorandum. Similarly, the provisions of this Agreement should not be used as the basis of any civil claims stemming from a deviation from the guidelines set forth herein.

**2. PARTIES TO THE AGREEMENT**

The Parties to this agreement are the Washington state, county, and city government(s) that operate the Participating Agencies. They are referred to herein as "Parties to the Agreement" or "Parties."

**3. PARTICIPATING AGENCIES**

The "Participating Agencies" or "Participating Agency" are the following departments of the Parties to the Agreement:

1. Bainbridge Island Police Department
2. Bremerton Police Department
3. Kitsap County Sheriff's Office
4. Port Orchard Police Department
5. Poulsbo Police Department
6. Shelton Police Department
7. Washington State Patrol
8. Clallam County Sheriff's Office
9. Port Angeles Police Department
10. Sequim Police Department

#### **4. DEFINITIONS**

- Best practices:** Methods, techniques, and procedures that have consistently shown by research and experience to produce superior results and are established or proposed as a standard and identified as best practices by the Washington State Criminal Justice Training Commission.
- Board:** The KCIRT Board of Directors is comprised of the Chief Law Enforcement Officers, or their designees, of the Participating Agencies.
- Chief Law Enforcement Officer:** The Sheriff or Chief of Police, also referred to as CLEO in this agreement, of Participating Agency, or their designee.
- Critical Incident:** Any incident in which:
- a) A law enforcement officer used deadly force.
  - b) A person dies while in custody.
  - c) An officer is involved in a fatal collision.
  - d) The state's Office of Independent Investigation team or OII has chosen not to accept the investigation after being briefed.
- Deadly force:** A law enforcement officer used force reasonably likely to cause death, great bodily harm, or substantial bodily harm; and where that use of force resulted in death, great bodily harm, or substantial bodily harm, per RCW 43.102.120.
- Evanescent evidence:** Physical evidence that may be degraded or tainted by human or environmental factors if left unprotected or unpreserved for the arrival of KCIRT or; identification and contact information for witnesses to the incident.
- Incident Commander:** The command-level officer who responds to the scene of a Critical Incident and is responsible for the management of the investigation, including developing objectives, directing operations, coordinating with other entities, and applying resources and manpower to accomplish objectives. The Incident Commander will typically be the KCIRT Administrator or Assistant Administrator but, in their absence, may be another command-level officer qualified to act as the Incident Commander.

**Incident Supervisor:** An experienced investigator of supervisory rank who oversees the investigative personnel at a Critical Incident and reports to the Incident Commander.

**In-Custody Death:** The death of any person who is detained, arrested, being transported to a facility for incarceration, or incarcerated in local facilities. Excluded are deaths caused by fatal injuries that occur while an inmate is under physician's treatment for a disease or other natural condition, except that deaths involving custodial trauma or custodial suicide while under a physician's treatment are considered In-Custody Deaths.

**Involved Agency:** The agency employing an Involved Officer or an agency in whose custody a person dies in circumstances amounting to an In-Custody Death. The Involved Agency may also be the Venue Agency.

**Involved Officer:** A law enforcement officer or corrections officer:

"Involved Officer" means one of the following persons who is involved in an incident as an actor or custodial officer in which the act or omission by the individual is within the scope of the jurisdiction of the office as defined in this chapter:

- a) A general authority Washington peace officer, specially commissioned Washington peace officer, or limited authority Washington peace officer, as defined in RCW 10.93.020, whether on or off duty if he or she is exercising his or her authority as a peace officer; or
- b) An individual while employed in a city, county, or regional adult or juvenile institution, correctional, jail, holding, or detention facility as defined in RCW 70.48.020, 72.09.015, or 13.40.020: and
  - 1. In whose custody a person dies; or
  - 2. Is involved in a vehicle collision in which someone dies.

**KCIRT:** The Kitsap Critical Incident Response Team. A team of investigators who can be called upon by any of the Participating Agencies to independently investigate Critical Incidents, meeting the independent investigative team (IIT) requirements of Chapter 139-12 WAC.

**KCIRT Board Chair:** Voted on by the Board for a term of two years.

**KCIRT Administrator:** An officer with command rank designated by the Board to oversee KCIRT or their authorized designee.

**Assistant Administrator:** An officer with command rank designated by the Board to assist the KCIRT Administrator and lead KCIRT in the absence or recusal of the KCIRT Administrator.

**KCIRT Protocols:** Uniform procedures and guidelines for the investigation of officer involved Critical Incidents derived from best practices and which are intended to produce a

thorough, independent, impartial, and transparent investigation.

**Prohibited Content:** Information, which if shared between members of the KCIRT investigative team and any member of the Involved Agency, could adversely affect public confidence in the integrity or independence of the investigation. This includes but is not limited to compelled statements taken from Involved Officer, any investigative information or content derived from a compelled statement, or any information or evidence collected or produced by the independent investigation.

**Venue Agency:** The agency with primary territorial jurisdiction, as defined by RCW 10.93.020(1). The Venue Agency may also be the Involved Agency.

## **5. ORGANIZATION**

No separate legal or administrative entity is created by this Agreement nor do the Parties intend to create through this Agreement a separate legal or administrative entity subject to suit.

## **6. GOVERNANCE**

KCIRT is governed by a Board composed of the CLEOs of the Participating Agencies.

The Board should meet at least annually or more frequently as needed.

Representatives from the Prosecutor's Offices of Participating Agencies will function in a non-voting advisory capacity for the Board.

Each Participating Agency shall have one vote. All Board actions and decisions are approved and adopted by simple majority of the attending Board members when at least 5 of the 10 agency CLEOs are present for such vote.

The Board will approve protocols developed to guide KCIRT investigations.

The Board, excluding the CLEO of the Involved Agency, is the final authority on any questions regarding the conduct of the independent investigation that cannot be resolved at a lower level.

The Board, excluding the CLEO of the Involved Agency and the prosecutor's offices, will review investigation summaries prior to submittal to the prosecutor's office of the jurisdiction of the Involved Agency.

## **7. AUTHORITY & IMPLEMENTATION**

The decision to implement Mutual Aid under this Agreement rests entirely with the CLEO of the Venue Agency.

Participating Agencies are not obligated to request that KCIRT investigate a Critical Incident occurring in their jurisdiction and may request other agencies or resources conduct an independent investigation.

## **8. KCIRT ADMINISTRATOR / ASSISTANT ADMINISTRATOR**

Participating Agencies may submit for the Board's consideration a list qualified command-level officers with previous experience in criminal investigations to fill the positions of KCIRT Administrator and Assistant Administrator.

The KCIRT Board of Directors will appoint a KCIRT Administrator and Assistant Administrator for a maximum of a two-year term from the list of qualified command-level officers submitted by Participating Agencies. The term of the KCIRT Administrator and/or Assistant Administrator may be extended or terminated at the discretion of the Board.

The KCIRT Administrator and Assistant Administrator will be from different agencies, preferably separating the three counties.

The KCIRT Administrator will serve as the Incident Commander at a Critical Incident unless they are an employee of the Involved Agency. In this case, the Assistant Administrator shall serve as the Incident Commander. In the absence or recusal of the KCIRT Administrator and Assistant Administrator, another qualified and experienced investigator, approved by the KCIRT Administrator or Assistant Administrator, from a non-Involved Agency, may serve as the Incident Commander.

The KCIRT Administrator, will be responsible for providing oversight of investigations as well as maintaining the readiness and training of the unit.

The KCIRT Administrator will develop and periodically update the KCIRT investigation to ensure they align with homicide investigation best practices published by the Washington State Criminal Justice Training Commission and other industry best practices. The KCIRT Administrator shall submit newly developed or updated protocols to the Board for approval.

## **9. KCIRT INVESTIGATORS**

For new investigators, a Participating Agency (employing agency) that proposes to have its detective assigned to KCIRT will ensure all prospective KCIRT investigators meet any time and training prerequisites.

The KCIRT Administrator will ensure all prospective KCIRT investigators meet any time, or training prerequisites of Chapter 139-12 WAC.

Investigators assigned to KCIRT are expected to have a work history free of a sustained finding of serious misconduct, and no pattern(s) of sustained complaints or demonstrable bias or prejudice against community members that may be impacted by the police use of deadly force, as enumerated in Chapter 139-12 WAC.

A KCIRT member may be removed from KCIRT at any time by their own agency. A team member may also be removed from KCIRT upon recommendation of the KCIRT Administrator and approval by the Board.

## **10. LEAD INVESTIGATOR**

Chapter 139-12 WAC requires that those who are assigned to a lead investigator role for an independent

investigative team (IIT) meet certain experience and training requirements and hold an "IIT qualified lead investigator certificate" issued by the Washington State Criminal Justice Training Commission.

The Board has identified the Incident Commander and Incident Supervisor as the "lead investigators" for the purposes of meeting the requirements of WAC 139-12 and those members requiring an "IIT Qualified Lead Investigator" certification.

To obtain an "IIT qualified lead investigator" certificate, members must provide proof of at least three years of uninterrupted experience as a certified peace officer, crime scene investigator, or related expertise in a discipline relevant to investigations. They must also provide proof of successfully completing the prescribed training classes, or appropriate equivalent experience, listed below:

- a. Basic homicide investigation.
- b. Interviewing and interrogation.
- c. LETCSA Violence de-escalation, patrol tactics, and mental health training.
- d. 2 Year uninterrupted as a certified police officer.

KCIRT members who have two or more years of relevant, full-time criminal investigative work experience may substitute their work experience for the required basic training classes.

## **11. NON-SWORN KCIRT MEMBERS**

Non-commissioned investigative members of KCIRT (i.e. crime scene investigators, evidence technicians, etc.) are not required to obtain the qualified lead investigator certificates. They are also not required to complete biographies, or conflict of interest forms reviewed by community representatives.

## **12. TRAINING**

Participating Agencies agree to provide their investigators with training on the following core areas prior to their assignment to KCIRT:

- a. Interview and interrogation
- b. Basic Homicide investigation
- c. Officer-involved shooting investigation
- d. LETCSA Violence de-escalation and mental health training

KCIRT shall train as a unit at least annually for a minimum of four (4) hours. One (1) four (4) hour training will take place twice a year. Investigators are required to attend at least one training block. However, it is preferred that investigators participate in each training block. Annual training may include criminal investigation topics recommended by Chapter 139-12 WAC.

## **13. NON-LAW ENFORCEMENT COMMUNITY REPRESENTATIVES**

Each Participating Agency's CLEO will solicit names of community members who are interested in serving as non-law enforcement community representatives to KCIRT. The community members should have credibility with, and ties to, communities impacted by police use of deadly force. The Board will create a roster of non-law enforcement community representatives who will be assigned to the selection of KCIRT investigators or participate in a KCIRT investigation as described below.



The KCIRT Administrator will provide the qualifications of current KCIRT investigators to the non-law enforcement community representatives for review when requested.

At least two non-law enforcement community representatives, selected by the CLEO of the employing agency, will review the qualifications of current investigators, and participate in the vetting, interviewing, and/or selection of new KCIRT investigators.

At least two non-law enforcement community representatives will be assigned to each KCIRT investigation into an officer's use of deadly force. Community members who live in the jurisdiction where the incident occurred will generally be called upon to participate in that independent investigation. Community members from other jurisdictions may also be called upon based on availability, conflicts of interest or other issues preventing some from participating. The non-law enforcement community representatives will:

- a. Review conflict of interest statements submitted within seventy-two hours of the commencement of each investigation by the investigators.
- b. Attend any final presentation with the Involved Agency CLEO.
- c. Have access to the investigation file when it is completed.
- d. Be provided a copy of all press releases and communication to the media prior to release; and
- e. Review notification of equipment use of the Involved Agency.

The non-law enforcement community representatives must sign a binding confidentiality agreement at the beginning of each investigation that remains in effect until the prosecutor of jurisdiction either declines to file charges or the criminal case is concluded. If the confidentiality agreement is violated, the non-law enforcement representative may be removed.

#### **14. ACTIVATION**

The KCIRT Administrator will be responsible for implementing and routinely updating a system for activating KCIRT through Kitsap 911 or other means.

The CLEO of the Venue Agency, or their designee, can request KCIRT activation by contacting the KCIRT Administrator or Assistant Administrator.

When activated, the KCIRT Administrator shall designate a team of investigators and non-law enforcement community representatives (collectively the "KCIRT Team"). The KCIRT team will respond to the location designated by the KCIRT Incident Commander. The KCIRT team members assigned to an investigation shall remain available from the time of the call-out until deactivated. KCIRT team members will be assigned tasks at the direction of the Incident Commander or Incident Supervisor.

Participating Agencies recognize that follow-up meetings and additional investigative work will be required beyond the initial call-out to complete the investigation. Participating Agencies will ensure that every reasonable effort is made to allow the KCIRT investigators to meet these commitments.

The KCIRT Administrator may consult with the Venue Agency's prosecutor's office representative, as needed, throughout the investigation.

## **15. INDEPENDENT INVESTIGATION REQUIREMENT**

No employee of an Involved Agency shall participate in the investigation of a Critical Incident or attend any related investigative activities (e.g., interviews of the Involved Officers or other witnesses), where KCIRT has assumed responsibility for the investigation. Nothing in this agreement shall preclude an officer employed by an Involved Agency from:

- a. Acting as a first responder to the scene of the incident,
- b. Providing or facilitating medical assistance to any injured person,
- c. Clearly marking and protecting the scene,
- d. Locating and preserving evanescent evidence or
- e. Participating in a search for, or pursuit of, any persons suspected of a crime related to the incident.

In locating and preserving evanescent evidence, Involved Agency personnel may photograph or use other methods of documenting the location of physical evidence and take steps to identify persons who may have witnessed the incident.

Once KCIRT investigators arrive at the scene of a Critical Incident, and the Incident Commander has the appropriate resources on scene, the Involved Agency will transfer control of the scene to KCIRT and provide any information pertaining to evidence and witnesses.

## **16. CONFLICT OF INTEREST**

Within seventy-two hours of the commencement of each investigation, the KCIRT team members must complete a "conflict of interest" assessment tool developed by the Washington State Criminal Justice Training Commission to evaluate any connection between KCIRT investigators assigned to the investigation and the officers being investigated.

The conflict assessment will be reviewed and discussed by the non-law enforcement community representatives and the KCIRT Administrator.

The KCIRT Administrator, Incident Commander, Incident Supervisor, or the CLEO of the Involved Agency may order the recusal of any investigator, or take such actions that may be needed, to ensure the impartiality of the investigation.

Participating Agencies shall have an ongoing responsibility to notify the KCIRT Administrator of any newly discovered information related to a conflict of interest.

## **17. INVESTIGATIONS**

KCIRT will conduct a thorough investigation of Critical Incidents. The independent investigation will follow accepted best practices for homicide investigations published by the Washington State Criminal Justice Training Commission and incorporated in KCIRT protocols.

The investigation file should provide the prosecutor with sufficient information to make an evaluation of whether the use of deadly force met the good faith standard established in RCW 9A.16.040 and satisfied other applicable laws and policies.

If the investigation establishes that a crime was committed by any person involved in the incident, the prosecutor's office of jurisdiction may request a probable cause statement.

The determination regarding which agency will investigate any crime associated with the incident will be made by the Incident Commander in consultation with the Involved CLEO, Venue CLEO and the prosecutor with jurisdiction. A primary factor in this determination will be the degree of separation by time and distance between the underlying crime and the officer's use of deadly force.

Investigators from Participating Agencies who are assigned to a KCIRT investigation shall be subject to the KCIRT chain-of-command for the duration of the initial call-out and for subsequent follow-up assignments related to the investigation.

Participating Agencies recognize that, once activated for an investigation, their investigators are committed to KCIRT for the duration of the investigation, or until released by the Incident Commander, and may be required to report to work and conduct investigative activities outside their jurisdiction. Participating Agencies that wish to recall their investigators prior to their release by the KCIRT will consult with the KCIRT Administrator. The KCIRT Administrator, or designee will designate which agency is responsible for the storage of evidence associated with the incident.

Participating Agencies may request KCIRT assistance for other investigations not related to a Critical Incident, such as a homicide. KCIRT will not conduct administrative or internal investigations (i.e., non-criminal investigations).

KCIRT will provide a complete file to the Involved Agency and the applicable prosecutor's office at the conclusion of the investigation. The file will include all records produced by KCIRT investigators and should be maintained in accordance with applicable records retention schedules.

KCIRT will strive to present the completed case report to the prosecutor with jurisdiction within six months of the event. If there are delays in the investigation and this timeline cannot be met, an explanation will be provided to the agency liaison of the Involved Agency by the KCIRT Administrator and/or Incident Commander.

## **18. FIREWALLS**

The KCIRT Administrator will create and enforce information firewalls to prevent information sharing between KCIRT and the Involved Agency. The Involved Agency agrees not to provide or reveal prohibited content to KCIRT. KCIRT members will not accept or receive any Prohibited Content from the Involved Agency or its employees.

To prevent secondary dissemination of investigative information, KCIRT members assigned to the investigation will not discuss the investigation, including information about the incident uncovered by the investigation, with non-team members without authorization from the Incident Commander or Incident Supervisor. The Incident Commander with the designated KCIRT PIO on the content of news releases or intended press conference statements prior to their release to the media.

If any member of KCIRT receives Prohibited Content, the investigator receiving the Prohibited Content must immediately report it to the KCIRT Administrator or Incident Commander and the member must discontinue participation in the investigation. The KCIRT Administrator or Incident Commander will advise the prosecutor of the disclosure of Prohibited Content to the Involved Agency. The information will be removed or isolated from the investigation unless the prosecutor determines such action unnecessary.

## **19. FAMILY / TRIBAL LIAISONS**

A family member of the person against whom deadly force has been used will be notified as soon as they can be located by either the Involved Agency or KCIRT, whichever is faster.

A member of KCIRT will be assigned as a family liaison within the first twenty-four hours and keep the family, or a representative of the family's choice, informed of all significant developments in the investigation and will give the family and the Involved Agency advance notice of all scheduled press releases.

If the person against whom deadly force is believed to be a member of a federally recognized tribe, a member of KCIRT will be assigned as a tribal liaison within the first twenty-four hours and keep the tribe (or a representative of the tribe's choice) informed of all significant developments of the investigation.

The CLEO of the Involved Agency will notify the Governor's Office of Indian Affairs whenever an officer's use of force results in the death of an enrolled member of a federally recognized Indian tribe in accordance with the requirements of RCW 10.114.021.

## **20. RESPONSIBILITIES OF VENUE AGENCY**

The Venue Agency shall ensure proper crime scene protection. This includes, but is not limited to, immediately securing the crime scene, controlling access into the crime scene, recording the names of individuals who have entered the crime scene, and taking reasonable steps to identify and protect evanescent evidence. Written reports shall be provided by all personnel who enter a designated crime scene to the KCIRT representative.

## **21. HOSPITAL SECURITY**

If a law enforcement officer has been injured and transported to a hospital, the Involved Agency will be responsible for coordinating security and assistance at the hospital.

If a person has been injured by a law enforcement officer's use of deadly force and transported to a hospital, the Involved Agency should coordinate with another agency to provide security when reasonably able based on the circumstances. If a person has been injured while in the custody of corrections officers and transported to a hospital, uninvolved corrections officers may be assigned to provide security in addition to security provided by a non-involved agency in order to meet any custodial duty requirements

under the law.

## **22. RESPONSIBILITIES OF PARTICIPATING AGENCIES**

Each Participating Agency shall pay all wages and benefits due to any of its employees providing services under this Agreement, including overtime pay, worker's compensation benefits and death benefits, in the same manner as when those employees are on duty working directly for their employing agency.

Pursuant to RCW 10.93.040, personnel assigned to KCIRT investigations shall be considered employees of their Participating Agency, which shall be solely and exclusively responsible for that employee.

Personnel assigned to KCIRT investigations shall conform to their employing agency's rules, regulations and KCIRT protocols. Any conflicts will first be addressed by the KCIRT Administrator. If the KCIRT Administrator is unable to resolve the conflict, the conflict shall be escalated to the Board.

## **23. EQUIPMENT AND SUPPLIES**

Each Participating Agency agrees to supply its own personnel with the necessary supplies to participate in KCIRT (notebooks, cameras, tapes, electronic media, pens, etc.).

Equipment belonging to the Involved Agency may not be used during an independent investigation of an officer's use of deadly force unless the equipment is critical to the investigation, no reasonable alternative exists, and the use is approved by the KCIRT Administrator and non-law enforcement community representatives. If an Involved Agency's equipment is used, the Incident Commander will notify the non-law enforcement community representatives to explain why the equipment needs to be used and the steps taken to appropriately limit the role of any Involved Agency personnel in facilitating the use of that equipment. Each Participating Agency shall remain responsible for the ordinary wear and tear and routine maintenance of its respective equipment used in support of this Agreement.

Each Participating Agency will be responsible for repairing or replacing its equipment that may be damaged during an investigation. If the cost is substantial, the agency whose equipment was damaged may request to share the expense with other members, but no Participating Agency is obligated to contribute unless that Participating Agency was responsible for the damage.

## **24. PROPERTY**

The Parties do not anticipate the acquisition of property for the performance of this Agreement and any property acquired by a Party using this Agreement shall be returned to the acquiring Party, unless otherwise agreed.

## **25. EXPENSES**

All normal personnel and operational costs related to the investigation shall be the responsibility of the Participating Agencies providing members to the team.

Prior to, when feasible, incurring extraordinary costs associated with travel, custodial security, specialized equipment, testing, or other expenses not otherwise specifically mentioned here, the KCIRT Administrator will consult with the CLEO of the Involved Agency and Venue Agency. Any such agreed-upon

expenditures will be the responsibility of the Involved and Venue Agencies unless reimbursement or cost-sharing agreements are reached between the Participating Agencies on a case-by-case basis.

Unless a specific agreement to reimburse or pay expenses is adopted as provided herein, each party to this Agreement shall be responsible for individually budgeting sufficient amounts to fulfill its obligations under this Agreement.

## **26. COMMUNICATIONS AND MEDIA RELATIONS**

When appropriate, the Involved Agency may provide periodic public updates on matters not directly related to the on-going KCIRT investigation of the Critical Incident.

The Incident Commander or other representative of the KCIRT will provide public updates on the investigation in accordance with [Chapter 139-12 WAC](#). A copy of all press releases and communication will be provided to the family liaison and at least two non-law enforcement community representatives assigned to each investigation prior to release to the media.

Neither the Involved Agency nor KCIRT will provide the media with the criminal background information of the person against whom deadly force has been used, unless it is specifically requested, and release of the information is required by the Public Records Act or other applicable laws. Criminal background information includes the details of the events preceding the use of force investigated as well as information related to prior police contacts, arrests, and convictions. RCW 10.97.030

If the CLEO of the Involved Agency requests that KCIRT releases existing body cam video or other investigation information of urgent public interest, the KCIRT Administrator should honor the request with the agreement of the prosecutor with jurisdiction.

Nothing in this Agreement prevents or prohibits Participating Agencies and Parties to this Agreement from fulfilling their obligations under various public disclosure and reporting laws, including but not limited to Chapter 10.97 RCW and Chapter 42.56 RCW.

## **27. KCIRT RECORDS**

All KCIRT Business Records prepared, owned, or used by KCIRT will be retained by each participating agency involved in KCIRT in accordance with Section 26 of this Agreement. The Involved Agency will retain a final copy of the investigative case file.

## **28. RECORD RETENTION, PUBLIC RECORDS REQUESTS**

KCIRT is not an independent public agency separately subject to the Public Records Act ("PRA"), Chapter 42.56 RCW. KCIRT has no employees, records custodian, or independent place of business. Accordingly, each Participating Agency shall be responsible for retaining records it or its employees prepare, own, or use in the course of KCIRT-related business in accordance with applicable records retention schedules.

All requests for public records under Chapter 42.56 RCW ("public records requests") for records relating to KCIRT investigations shall be handled by the Participating Agency receiving the request ("Receiving Agency") in accordance with its own policies and state law. Any liability, damages, causes of action, or claims in connection with a public records request are the sole responsibility of the Receiving Agency.

Any Receiving Agency that reasonably believes other Participating Agencies has records that qualify as the Receiving Agency's public records may request these public records from the other Participating Agencies. The other Participating Agencies must make a good-faith effort to provide these records to the Receiving Agency in a reasonably expedited fashion to enable the Receiving Agency to meet its obligations under the Public Records Act. In the event the Receiving Agency requests records from other Participating Agencies under this paragraph and the other Participating Agency or Agencies disagree that the records are the Receiving Agency's public records, the Receiving Agency's determination shall govern, and the other Participating Agencies shall produce the records at issue to the Receiving Agency.

The Receiving Agency has ultimate authority over what exemptions to claim (if any) and what records to produce in response to the public records requests it receives. To the extent practicable and lawful under Chapter 42.56 RCW, the Receiving Agency will provide at least ten days' notice to any Participating Agency that is implicated in any public records request before the Receiving Agency releases any records. The purpose of this notice is to provide the Participating Agency a reasonable opportunity to seek an injunction against disclosure under RCW 42.56.540 if it chooses to do so.

## **29. REPORTING**

Copies of all information received or uncovered during the course of the KCIRT investigation will be provided to the prosecutor with jurisdiction, the Venue Agency and the Involved Agency in the form of a complete case file. The KCIRT Administrator will provide a briefing to the CLEO of the Venue and Involved Agencies after the investigation has been reviewed by the prosecutor with jurisdiction.

Original records shall be maintained by each investigator's employing agency. Investigators from the Participating Agencies will forward copies of their records related to the investigation to the Incident Supervisor or the designated lead investigator.

When the investigation is complete, the KCIRT team will present the case to the Board prior to presenting the investigation to the CLEO of the Involved Agency, designated community representatives, and the prosecutor with jurisdiction.

A partially complete case may be presented to the prosecutor with jurisdiction, for the sake of expediency, when the investigative tasks that remain outstanding are not required for the finding of fact and are expected to take a considerable amount time to complete (e.g., non-critical lab results).

When an independent investigation is complete, the information will be made available to the public in a manner consistent with applicable state law.

## **30. DURATION OF AGREEMENT**

This Agreement shall take effect when it has been signed by the authorized representative of each Participating Agency and party to the Agreement and shall be renewed automatically on the anniversary of the date of signing even if the signers to this Agreement no longer hold the office they represented as signer, subject to termination as set forth herein.

## **31. TERMINATION, SUSPENSION, OR WITHDRAWAL FROM AGREEMENT**

The duration of this Agreement shall be indefinite and continue until terminated by all the Parties to the

Agreement. Any Participating Agency may withdraw from the Agreement ("Withdrawing Party"). However, prior to said withdrawal being effective, the Withdrawing Party must give a minimum of ten (10) days' written notice to the other Participating Agencies ("Notice"). Notice may be made by mailing the same to all signatories (or anyone who has replaced the signatory in the same representative capacity for each Party) and accounting for three (3) business days for the same. Further, in order for withdrawal from the Agreement to be effective, all signatories (or anyone who has replaced the signatory in the same representative capacity) for the Withdrawing Party must provide said Notice.

Regardless of withdrawal, the terms of this Agreement shall apply in any situation where the Withdrawing Party is then receiving and/or providing Mutual Aid to or from any other Participating Agency or Agencies. Additionally, regardless of withdrawal, the terms of this Agreement under the above-noted paragraph entitled "Public Records Requests" shall survive withdrawal and termination.

In any event, regardless of the existence of this Agreement, withdrawal from this Agreement, or signing of this Agreement, all general authority Washington peace officers employed by the Participating Agencies will still have authority to act pursuant to RCW 10.93.070, Washington Mutual Aid Peace Officers Powers Act.

### **32. ADDITIONAL AUTHORITY**

This Agreement shall be construed as additional authority and not as a limitation of any preexisting authority of the Parties to the Agreement.

### **33. WAIVER**

The failure of any Party to enforce a provision of this Agreement shall not constitute a waiver by that Party of that or any other provision.

### **34. PARTIAL INVALIDITY OR SEVERABILITY**

It is the intent of the Parties that if any part, term, or provision of this Agreement should be adjudged invalid, the remaining portions of the Agreement shall continue in full force and effect.

Whenever possible, each provision of this Agreement shall be interpreted in such a way as to be effective and valid under applicable law.

### **35. AMENDMENTS**

This Agreement may only be amended in writing and only when acknowledged by the authorized signature of all Parties.

### **36. LIABILITY**

RCW 10.93.040 and 10.93.060 and any other applicable provisions of Chapter 10.93 govern liability and privileges and immunities available to the Parties under this Agreement. Nothing contained in this Agreement shall be construed to alter the liability rules established in RCW 10.93.040 and .060 or to create a liability or a right of indemnification by any third party. This Agreement shall not be construed



to create a higher standard or duty of care for civil or criminal liability against the Participating Agencies, their officials, or members.

### **37. ENTIRE AGREEMENT**

This Agreement contains the entire understanding of the Parties and supersedes any other agreement or understanding of the Parties relating to the subject matter of this Agreement.

### **38. INDEPENDENT CAPACITY**

In accordance with RCW 10.93.040, all personnel assigned by a Party to participate as a KCIRT Team member shall be considered the employees of the primary commissioning agency for all purposes whatsoever, which shall be solely and exclusively responsible for its own employees. All rights, duties, and obligations of the employer shall remain with the primary commissioning agency. The personnel assigned by a Party shall continue under the employment of his or her employer for all purposes whatsoever, including without limitation, any loss, claim, damages, or liabilities arising out of or related to KCIRT activities and investigations.

Each Party and its respective employees and agents shall act as an independent contractor and not as an employee or agent of another Party to this Agreement. The employees and agents of each Party who are engaged in the performance of this Agreement shall continue to be the employees or agents of that Party. No Party shall have the authority to bind another Party nor control the employees, agents, or contractors of another Party to this Agreement. All rights, duties, and obligations of a Party shall remain with that Party.

Each Party shall be solely and exclusively responsible for the compensation, benefits, training expenses, and all other costs and expenses for its employees. Each Party will be responsible for ensuring compliance with all applicable laws, collective bargaining agreements, and civil service rules and regulations regarding its own employees.

### **39. NONDISCRIMINATION**

No Party will discriminate against any person on the basis of race, color, creed, religion, national origin, age, sex, marital status, sexual orientation, veteran status, disability, or other circumstance prohibited by federal, state, or local law, and shall comply with Title VI of the Civil Rights Act of 1964, P.L. 88-354 and Americans with Disabilities Act of 1990 in the performance of this Agreement.

### **40. SIGNATORIES' AUTHORITY**

The authorized representatives signing below are signing this Agreement pursuant to RCW 10.93.070 and pursuant to the existing previously mutually authorized police powers in their respective jurisdictions as evidenced by documents on file with the Washington Association of Sheriffs and Police Chiefs. The authorization given by any Party shall be effective on the date of signature of that entity.

### **41. COUNTERPARTS, FACSIMILE, ELECTRONIC SIGNATURE**

The Parties agree that this Agreement may be executed in multiple counterparts, and, upon such execution, all the counterparts taken together shall constitute one and the same Agreement.

Counterparts and signatures transmitted by facsimile, email, or other electronically delivered signatures of the Parties shall be valid and effective as originals.

**42. GOVERNING LAW**

This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

**IN WITNESS WHEREOF**, the Parties by the signatures of their authorized representatives have executed this Agreement effective on the date shown by each signature.

*Signatures on next page*

**CITY OF BAINBRIDGE ISLAND, WASHINGTON**

By: \_\_\_\_\_  
Blair King, City Manager

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Joseph Clark, Chief of Police

Date: \_\_\_\_\_

**CITY OF BREMERTON, WASHINGTON**

By: \_\_\_\_\_  
Greg Wheeler, Mayor

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Tom Wolfe, Chief of Police

Date: \_\_\_\_\_

**KITSAP COUNTY**

By: \_\_\_\_\_  
John Gese, Sheriff

Date: \_\_\_\_\_

**DATED** or **ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2024.

**BOARD OF COUNTY COMMISSIONERS  
KITSAP COUNTY, WASHINGTON**

\_\_\_\_\_  
**KATHERINE T. WALTERS**, Chair

\_\_\_\_\_  
**CHRISTINE ROLFES**, Commissioner

\_\_\_\_\_  
**CHARLOTTE GARRIDO**, Commissioner

ATTEST:

\_\_\_\_\_  
Dana Daniels, Clerk of the Board

**CITY OF PORT ORCHARD, WASHINGTON**

By: \_\_\_\_\_  
Robert Putaansuu, Mayor

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Brandy Wallace, City Clerk

By: \_\_\_\_\_  
Matt Brown, Chief of Police

Date: \_\_\_\_\_

**CITY OF POULSBO, WASHINGTON**

By: \_\_\_\_\_  
Becky Erickson, Mayor

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Ron Harding, Chief of Police

Date: \_\_\_\_\_

**CITY OF SHELTON, WASHINGTON**

By: \_\_\_\_\_  
Eric Onisko, Mayor

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Chris Kostad, Chief of Police

Date: \_\_\_\_\_



**WASHINGTON STATE PATROL**

By: \_\_\_\_\_  
John R. Batiste or designee, Chief

Date: \_\_\_\_\_

**CITY OF PORT ANGELES, WASHINGTON**

By: \_\_\_\_\_  
Kate Dexter, Mayor

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Brian Smith, Chief of Police

Date: \_\_\_\_\_

**CITY OF SEQUIM, WASHINGTON**

By: \_\_\_\_\_  
Brandon Janisse, Mayor

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Mike Hill, Chief of Police

Date: \_\_\_\_\_

Approved as to form

By: \_\_\_\_\_  
Kristina Nelson-Gross, City Attorney

Date: \_\_\_\_\_

**CLALLAM COUNTY SHERIFF'S OFFICE**

By: \_\_\_\_\_  
Brian King, Sheriff

Date: \_\_\_\_\_

**DATED** or **ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2024.

**BOARD OF COUNTY COMMISSIONERS  
CLALLAM COUNTY, WASHINGTON**

\_\_\_\_\_  
**MARK OZIAS**, Commissioner

\_\_\_\_\_  
**RANDY JOHNSON**, Commissioner

\_\_\_\_\_  
**MIKE FRENCH**, Commissioner

ATTEST:

\_\_\_\_\_  
, Clerk of the Board



## **Agenda Staff Report**

Agenda Item No.: Consent Agenda 4E

Meeting Date: June 11, 2024

Subject: Approval of an Alternative Location for City Council Meetings for June, July, August, and September 2024 due to City Hall Renovation Project

Prepared By: Charlotte Archer  
City Attorney

**Summary:** The City Council holds its meetings in the council chambers of City Hall, as noted at POMC 2.04.010, Meeting time and place. Consistent with the Open Public Meetings Act, the Council may select an alternate time and/or place (other than City Hall, or video conferencing and telephone) for any regular or work study session meeting, so long as staff publishes notice of the meeting in accordance with the requirements for a *special* meeting set out at RCW 42.30.080. Because of the City Hall Renovation project, the council chambers may be unavailable for a few meetings during the summer months of 2024. Instead, the City will provide an alternative room in City Hall for those members of the public electing to attend the meeting in person to view and participate in the meeting.

Consistent with POMC 2.04.010, the City Council desires to authorize staff to delegate authority to the Mayor to identify an alternative location in City Hall for any meetings displaced by the construction project, so long as the meeting and its location are noticed by the Clerk in accordance with RCW 42.30.080. This is a limited delegation for a set time, due to the construction activities (although Council could expand the timeframe, if it so chooses).

**Recommendation:** Staff recommends the Council authorize the Mayor to set the location of the meetings when the chambers is unsafe due to construction.

**Relationship to Comprehensive Plan:** N/A

**Motion for consideration:** "I make a motion to authorize the Mayor to select an alternative location in City Hall for the conduct of council meetings if council chambers is unavailable due to the City Hall Renovation Project from June to the end of September 2024, pursuant to POMC 2.04.010."

**Fiscal Impact:** None anticipated.

**Alternatives:** Do not approve and provide alternative guidance.

**Attachments:** Courtesy Copy of POMC 2.04.010

## **2.04.010 Meeting time and place.**

The city council shall hold a minimum of one meeting per month. The city council shall determine the annual schedule for these meetings for the next calendar year no later than the last regular business meeting of the preceding calendar year. Regular meetings are typically held on the second and fourth Tuesdays, in the council chambers of City Hall or by video conferencing and telephone when required by federal, state or local officials and permitted consistent with the Open Public Meetings Act, Chapter 42.30 RCW, commencing at the hour of 6:30 p.m. and continuing to 9:30 p.m. To continue past the 9:30 p.m. adjournment time, a majority of the city council must concur. The work study session meetings are typically held on the third Tuesday, in the council chambers of City Hall or by video conferencing and telephone when required by federal, state or local officials and permitted consistent with the Open Public Meetings Act, Chapter 42.30 RCW, commencing at the hour of 6:30 p.m. The city council may select an alternate time and/or place (other than City Hall, or video conferencing and telephone) for any regular or work study session meeting if public notice of such meeting has been given pursuant to the provisions of RCW 42.30.080 as now or hereafter amended. In the event any scheduled meeting falls on a holiday, the city council shall meet on the next business day at the same hour. (Ord. 019-20 § 3; Ord. 005-20 § 1; Ord. 038-17 § 2; Ord. 014-17 § 1; Ord. 009-16 § 1; Ord. 001-08 § 1; Ord. 006-06 § 1; Ord. 1931 § 1, 2004; Ord. 755 § 1, 1966).



**1. CALL TO ORDER AND ROLL CALL**

Mayor Putaansuu called the meeting to order at 6:30 p.m.

Roll call was taken by the City Clerk as follows:

Mayor Pro-Tem Chang	Present
Councilmember Diener	Present
Councilmember Fenton	Present
Councilmember Morrissey	Present
Councilmember Rosapepe	Present
Councilmember Trenary	Present
Councilmember Worden	Present
Mayor Putaansuu	Present

Staff present: Public Works Director Ryan, Community Development Director Bond, City Attorney Archer, Deputy Police Chief Iwashita, City Clerk Wallace, Deputy City Clerk Floyd, and Planning Commissioner Fontenot.

The meeting streamed live on the City’s YouTube channel.

**A. PLEDGE OF ALLEGIANCE (Time Stamp 00:29)**

Mayor Putaansuu led the audience and Council in the Pledge of Allegiance.

**2. DISCUSSION ITEMS**

Mayor Putaansuu said that since Planning Commissioner Fontenot is in attendance for the parliamentary training, he would like to move the Jurassic Parliament training video up to be the first discussion item.

**A. Ann Macfarlane (Jurassic Parliament) Mastering Motions with Robert’s Rules (Time Stamp 01:58)**

Mayor, Council, and staff, watched a video hosted by Ann Macfarlane, on how to master motions using Robert’s Rules of Order.

**Council direction:** No direction was given to staff.

At 7:43 p.m., Mayor Putaansuu called for a 5-minute recess.

At 7:48 p.m., Mayor Putaansuu called the meeting back to order.

### **B. POMC 5.60 Fireworks (Time Stamp: 1:10:11)**

The Mayor, Council, staff, and Chief Faucett with South Kitsap Fire and Rescue had a robust conversation about use of personal fireworks within Port Orchard City limits and if the City should consider a ban.

Discussions included personal safety, a 2022 survey sent out to City residents, leftover garbage from fireworks, climate change, contamination and pollution, fire hazards, impacts to residents and pets, impacts on non-profits selling fireworks, enforcement, police staffing, being pro-active with firework debris, emergency calls, fires and injuries, types of fireworks, public outreach, noise, timeframe if a ban is issued, designating firework zones, waiting to see what Kitsap County moves forward with designating zones for fireworks, adding the ban to a ballot, and creating another survey.

**Council direction:** Council directed staff to research creating a firework zone downtown and bring the full discussion back to the next work study on July 16, 2024.

### **C. City Council Roles and Responsibilities**

Due to time constraints, this discussion was not held.

### **3. CITY COUNCIL GOOD OF THE ORDER**

Due to time constraints, the City Council Good of the Order was not held.

At 9:01, Mayor Putaansuu recessed the meeting for a 10-minute executive session pursuant to RCW 42.30.110(1)(i) to discuss litigation brought against the agency. City Attorney Archer and Community Development Director Bond were invited to attend, and City Attorney Archer announced no action would be taken.

At 9:11 p.m., Mayor Putaansuu reconvened the meeting back into session.

### **4. ADJOURNMENT**

The meeting adjourned at 9:11 p.m. No other action was taken. Audio/Visual was successful.

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Brandy Wallace, MMC, City Clerk

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Robert Putaansuu, Mayor





## **Agenda Staff Report**

Agenda Item No.: Business Item 7A

Meeting Date: June 11, 2024

Subject: Adoption of an Ordinance Amending  
POMC Sections 10.12.460 and 10.12.500  
Regarding Parking Regulation

Prepared By: Denis Ryan  
PW Director

**Summary:** The City has codified regulations for parking at Port Orchard Municipal Code (POMC) Chapter 10.12. As a continued housekeeping measure, working in conjunction with the City's Parking Enforcement staff, the City's Public Works Department inventories existing parking signage on a continual basis and identifies necessary corrections, revisions, and modifications to current POMC Chapter 10.12 at Sections 10.12.460 to reflect existing needs and conditions for parking within the City. In addition, the City maintains an Interlocal Agreement with the Port of Bremerton, pertaining to the parking areas adjacent to the Marina Park. The City provides parking enforcement with the cost paid by the Port. Staff identified necessary amendments to the regulations pertaining to Lot 3 (codified at POMC 10.12.500) to identify that a portion of the parking within that Lot requires a permit and is time limited. By this Ordinance, the Council would adopt the recommended amendments (see attached redline of the Ordinance to assist with review.).

**Recommendation:** Staff recommends adoption of the ordinance to make the necessary code amendments.

**Relationship to Comprehensive Plan:** N/A

**Motion for consideration:** "I move to adopt an Ordinance amending POMC Chapter 10.12, regarding Parking, Stopping or Standing in the City."

**Fiscal Impact:** Parking enforcement is a general fund endeavor and is within budget.

**Alternatives:** Do not approve and provide alternative guidance.

**Attachments:** Ordinance  
Redline of Code Amendments

**ORDINANCE NO. \*\*-24**

**AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, RELATING TO PARKING, STANDING, AND STOPPING; AMENDING SECTIONS 10.12.460 AND 10.12.500 OF THE PORT ORCHARD MUNICIPAL CODE; PROVIDING FOR SEVERABILITY AND CORRECTIONS; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, WAC 308-330-270 authorizes the City to adopt regulations to prohibit, regulate or limit stopping, standing or parking of vehicles in areas of the City; and

**WHEREAS**, in accordance with that authority, the City's regulations for this topic are codified at Port Orchard Municipal Code (POMC) Chapter 10.12, and POMC Section 10.12.050(1) authorizes the City Council to from time to time, establish parking prohibitions and restrictions on portions of certain specified streets, with those prohibitions and restrictions codified at POMC 10.12.460 through 10.12.530; and

**WHEREAS**, the City Council deems it in the best interest of the City of Port Orchard to periodically review and update such regulations; and

**WHEREAS**, the City Council chooses to codify any updates to the parking regulations in order to aid the public in its ability to access and review said regulations; and

**WHEREAS**, the City and the Port of Bremerton are parties to an Interlocal Agreement pertaining to the control of parking areas located adjacent to the Marina Park that are often utilized for public events serving the residents of Port Orchard, and the parking enforcement rules for those areas are incorporated into the City's parking regulations to ensure authorized enforcement; and

**WHEREAS**, staff audited the existing regulations and identified necessary revisions to enable staff to take appropriate enforcement actions to ensure available parking for residents and businesses; and

**WHEREAS**, the City Council has reviewed the proposed amendments and believes it to be in the best interests of the City to enact the proposed amendments; now therefore

**THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON, DOES ORDAIN AS FOLLOWS:**

**SECTION 1. Amendment.** Section 10.12.460 of the Port Orchard Municipal Code is amended to read as is set out in Exhibit A which is incorporated herein by this reference.

**SECTION 2. Amendment.** Section 10.12.500 of the Port Orchard Municipal Code is amended to read as is set out in Exhibit A which is incorporated herein by this reference.

**SECTION 3. Authorization to Post Signs.** The City Engineer is hereby directed to post the signs as required by this Ordinance upon the effective date of this Ordinance.

**SECTION 4. Severability.** If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of constitutionality of any other section, sentence, clause or phrase of this ordinance.

**SECTION 5. Corrections.** Upon approval of the city attorney, the city clerk and the codifiers of this ordinance are authorized to make necessary technical corrections to this ordinance, including, without limitation, the correction of clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or section/subsection numbering.

**SECTION 6. Effective Date.** This ordinance shall be in full force five days after posting and publication. A summary of this ordinance may be published in lieu of publishing the ordinance in its entirety.

PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor and attested by the Clerk in authentication of such passage this 11<sup>th</sup> day of June 2024.

\_\_\_\_\_  
Robert Putansuu, Mayor

ATTEST:

\_\_\_\_\_  
Brandy Wallace, MMC, City Clerk

APPROVED AS TO FORM ONLY:

SPONSOR:

\_\_\_\_\_  
Charlotte A. Archer, City Attorney

\_\_\_\_\_  
Scott Diener, Councilmember

PUBLISHED:

EFFECTIVE DATE:

**Exhibit A**  
**Amendments to Chapter 10.12**

**10.12.460 Parking prohibited at all times.**

(1) When signs or markings are installed giving notice thereof, no person shall park a vehicle at any time upon any of the streets or parts of streets described as follows:

1. Advantage Avenue: on the west side of the north 350 feet of roadway and on the left-hand side, as the traffic flows, of the remainder of the street.
2. SW Alava Court: on the north side of the street.
3. Amherst Way SW: on both sides of the street.
4. SW Anchorage LN on the south side of the street.
5. Andasio Loop SE: on the outside curb along the entire loop.
6. Arnold Avenue E: along the west side of Arnold Avenue E, from the Lawrence Street intersection, to the northeast towards Bay Street, 100 feet.
7. Arnold Avenue E: along the east side of Arnold Avenue E, from the Bay Street intersection, to the south 66 feet.
8. Bay Street: at the intersection with Wharf Street (Mitchell Point), along the outside radius of the existing road as delineated by the established guardrail.
9. Bay Street: on the south side from Tracy Avenue, westerly for a distance of 200 feet.

10. Bay Street: on the north side, from the DeKalb Street pedestrian pier westerly for 70 feet and in front of 501 Bay Street.
11. Bay Street: at the southwest corner of the intersection with Arnold Avenue E, from the point of curvature to the point of tangency of the curve radius.
12. Bay Street: on the south side from Dekalb Street, 130 feet to the east.
13. Becky Avenue: on both sides of street, from Dallas Street south to dead end.
14. Bethel Avenue: on the west side from the driveway at 1130 Bethel Avenue, 245 feet north.
15. SW Bigler Way: on the south side of the street.
16. Bittern Lane: on both sides of the street from McCormick Village Drive to Wandering Way.
17. SW Blackburn Lane: on the south side of the street.
18. Bravo Terrace: on the east side, from the Bravo Terrace intersection south to the end of cul-de-sac.
19. Bristol Lane SE: on the east side of the street.
20. SW Cardiff Street: on the south side of the street.
21. Castleton Road SW: on both sides of the street.

22. Cedar Canyon: on both sides of the street within 100 feet of the Tremont Street right-of-way.
23. Chanting Circle SW: on both sides of street, from Old Clifton Road 260 feet. Then on the east side to Chanting Circle. Then along the inside curb of the remaining part of Chanting Circle.
24. Chatterton Avenue SW: on the west side of street.
25. Chowchilla Way: on the south side of street.
26. SW Colbert Way: on left-hand side of street as the traffic flows, from Pickford Place SW to Chatterton Avenue SW.
27. Currant Lane SW: on the west side of the street.
28. Dallas Street: on the right-hand side, as the traffic flows.
29. DeKalb Street: on south side from Cline Avenue easterly to dead end.
30. DeKalb Street: on the south side, from Sidney Avenue westerly for a distance of 100 feet.
31. DeKalb Street: on the north side, from Tracy Avenue easterly to the end of DeKalb Street.
32. DeKalb Street: on the south side, from Mitchell Avenue to the east side of Tracy Avenue.
33. Donna Street: on the south side of street.

34. Donnegal Circle SW: on both sides of the street.
35. Egret Street: on the south side of the street.
36. Explorer Ave: on the inside radius of the street.
37. Fantail Place: on the east side of the street.
38. Farragut Avenue: on both sides, from DeKalb Street to Morton Street; except, on the east side, 160 feet north of DeKalb Street.
39. SW Fielder Place: on the west side including the cul-de-sac.
40. Fiscal Street: on the south side of the street.
41. Forest Park Street: on both sides of the street.
42. Glenmore Loop: on the inside radius of the entire loop.
43. Glenwood Road SW: on the north side, from Sidney Road 350 feet west.
44. Great Glen Road SW: on the south side, from Telford Way SW easterly for a distance of 200 feet. From this point, on the west side of the street to SW Alava Court.
45. Great Glen Road SW: on the east side, from SW Alava Court to Gleneagle Avenue SW.
46. Grebe Way: on the north side, from Siskin Circle to Swift Avenue.
47. Guy Wetzel on both sides from Bay

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Street:	Street to Perry Avenue.
48. Hales Court SW:	on both sides of the street.
49. Hibiscus Circle SW:	on the outside radius of the entire circle.
50. Huntington Street:	on both sides from Olney Avenue to Glenmore Loop and the north side from Glenmore Loop to west end terminus.
51. Jabirin Way:	on the north side of street.
52. Keppel Loop SW:	on both sides of the street.
53. Kinross Road SW:	on the east side of the street.
54. Koda Circle:	along fire lanes where marked/posted.
55. Ladd Court SW:	on both sides of the street.
56. Landis Court SW:	on the northeast side.
57. Lawrence Street:	on both sides of the street.
58. Lazuli Street:	on the south side, from Wigeon Avenue to Siskin Circle.
59. Limerick Drive SW:	on both sides of the street.
60. Lippert Drive:	on both sides, from Pottery Avenue to Advantage Street.
61. Lloyd Parkway:	on both sides from SW Old Clifton Road to Lumsden Road.
62. Lone Bear	on both sides from Feigley



Drive:	Road to 100 feet west of Chatterton Avenue SW.
63. Longview Avenue:	on east side of street.
64. SE Lovell Street:	on the north side, from SE Russell Avenue to Wendell Avenue SE
65. Lowren Street:	on the right-hand side, as the traffic flows on the one-way portion of the street.
66. Lumsden Road:	on both sides of the street.
67. SE Markwick Road:	on both sides of the street.
68. Marymere Road SW:	on the south side, between Telford Way SW and Marymere Road SW.
69. Marymere Road SW:	on the west side, from SW Alava Court to Great Glen Road SW.
70. Mitchell Avenue:	on both sides, from Bay Street to Kitsap Street.
71. SW Mooring Lane:	on the south side of the street.
72. Murrelet Avenue:	on both sides, from Old Clifton Road to Siskin Circle.
73. SE Nordmann Loop:	on the outside curb of the entire loop.
74. SW Old Clifton Road:	on both sides from Chanting Circle SW to Campus Parkway.
75. Olivine Drive SW:	on both sides of the street.
76. SW Pendleton Way:	on the south side of the street.

77. Perry Avenue: on the west side of the street from Lawrence Street to Guy Wetzel Street.
78. Perry Avenue: on the east side 50' north and 50' south of Guy Wetzel Street.
79. SW Perth Place: on the south side of the street.
80. Pickford Place SW: on the left-hand side as the traffic flows on the street, from SW Colbert Way to end of cul-de-sac.
81. SW Pier Lane: on the south side of the street.
82. Plisko Avenue: on both sides, from Mitchell Avenue to Mile Hill Drive.
83. Pottery Avenue: on both sides of the street, within 100 feet of the Tremont Street right-of-way.
84. Prospect Street: on the inside radius of the curve between Robert Geiger Street and Frederick Avenue.
85. Reef Road SW: on the outside radius and on the inside radius of the SW corner for approximately 135' and the inside radius of the NW curve at Reef Road SW and Wandering Way for approximately 135'.
86. Retsil Road: on the west side, from the north corporate limits to the south property line of 982 Retsil Road.

87. Robert Geiger Street: other than official city vehicles, parking is prohibited at all times along the south side, from Bay Street to Prospect Street.
88. Rockwell Avenue: on both sides, from Bay Street to Kitsap Street.
89. Ross Street: on the south side of the 400 block.
90. Sage Court: on both sides of street.
91. Sage Street: on both sides from Pottery Avenue east for a distance of 70 feet and on the left-hand side, as the traffic flows, on the remainder of the street.
92. Seattle Avenue: on the east side, from Bay Street southerly for a distance of 82 feet.
93. SW Sedge St: On the north side of the street including the cul-de-sac.
94. Sherman Avenue: on the east side of the 1200-1300 block from the dead end 980 feet north.
95. Sidney Avenue: on the west side from Bay Street to Prospect Street.
96. Siskin Circle: on the inside curb of Siskin Circle throughout the circle.
97. Snowridge Avenue: on the left-hand side, as the traffic flows on the street.
98. Sprague Street: on the right-hand side, as the traffic flows on the one-way portion of the street.

99. Sroufe Street: on the south side, from Sidney Avenue to Portland Avenue.
100. SW Stanwick Way: on the right-hand side of street as the traffic flows, from Lone Bear Drive to Pickford Place SW.
101. Strathmore Circle SW: on outside of circle traveling either direction.
102. SW Sunnyside Street: on the south side of the street.
103. Sweany Street: on the north side, from Cline Avenue westerly for a distance of 340 feet.
104. Sweany Street: on the south side, from Sidney Avenue westerly for a distance of 200 feet.
105. Swift Avenue: on west side, from Siskin Circle to Lazuli Street.
106. Thornhill Avenue SW: on the south side of the street.
107. Tremont Place: on both sides of street from 233 Tremont Place driveway to end of road guardrail.
108. Tremont Street: on both sides of the street, within 100 feet of Pottery Avenue right-of-way.
109. Vardon Circle SW: on both sides of the street.
110. Viridian Avenue SW: on both sides of the street.
111. Vivian Court: on both sides of the street.
112. Wandering on both sides from

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Way:	McCormick Village Drive westward 100 feet.
113. Warbler Way:	on both sides of street from Old Clifton Road to Siskin Circle.
114. Warbler Way:	from Siskin Circle to curve (park) on south side and on east side from curve (park) to Grebe Way.
115. Waverly Rd SW:	on the west side of the street.
116. Wilkins Drive:	on both sides, from the west terminus, eastward 350 feet.

(2) Violation of this section is a Class A infraction.

#### **10.12.500 Parking time limited on certain city parking lots.**

(1) The city parking lots are identified as follows:

(a) Lot 2, which lies between Frederick Street and Sidney Avenue, north of Bay Street. Parking in Lot 2 shall be allowed for a maximum period of four hours, including two car charging stalls limited to four hours maximum, and one motorcycle stall.

(b) Lot 5, which is all parking spaces on City Hall property (first floor entry). Parking in Lot 5 shall be for City Hall ADA parking patrons and official vehicles only. The police chief or their designee may authorize deviations to this policy for Lot 5, if necessary. No monetary charge.

(c) Lot 6, which is all parking spaces abutting the landscaped area at the southwest corner of the intersection of Bay Street and DeKalb Street (Bayside Plaza). Parking in Lot 6 shall be allowed for a maximum period of two hours. No monetary charge.

(d) Lot 7, which is all parking spaces located on the library property. Parking in Lot 7 shall be limited to library staff only. Access to Lot 7 and parallel parking stalls via the adjacent parcel to the south pursuant to easement AF# (8903310122). No monetary charge.

(e) Lot 8, which lies east of City Hall, north of and adjacent to Prospect Alley (between Kitsap Street and Prospect Street). Lot 8 is for designated city vehicles and city employees via pass Monday through Friday. No monetary charge.

(f) Lot 9, 720 Prospect Street, which lies east of Lot 8, north of and adjacent to Prospect Alley (between Kitsap Street and Prospect Street). Lot 9 is for designated vehicles and city employees via pass Monday through Friday. No monetary charge.

(g) Lot 10, which lies on the east side of McCormick Village Drive between SW Old Clifton Road and SW Yarrow Street. Parking in Lot 10 shall be allowed for a maximum period of four hours, enforced on a 24-hour basis.

(h) Paul Powers Park, which lies north and east of the public works department “south shed” located at 2051 Sidney Avenue. Paul Powers Park parking is limited to dawn-to-dusk parking only.

(i) Van Zee Park, which lies south of Tremont Street and west of Sidney Avenue, located at 300 Tremont Street. Van Zee Park parking is limited to dawn-to-dusk parking only.

(j) Rockwell Pocket Park will be limited to two-hour parking from dawn to dusk.

(k) Lot 1, which lies between Orchard and Frederick Streets, on the north of Bay Street. Parking in Lot 1 is Port Orchard Marina parking, subject to city enforcement via an interlocal agreement between the city and the Port of Bremerton. Parking in Lot 1 shall require a paid parking pass issued by the Port of Bremerton.

(l) Lot 3, which is the five rows of parking and the row of waterfront parking west of Harrison Avenue and east of and parallel to the library’s easternmost exterior wall. Parking in Lot 3 is Port Orchard Marina parking, subject to city enforcement via an interlocal agreement between the city and the Port of Bremerton. Parking in Lot 3 shall require a paid parking pass issued by the Port of Bremerton except for stalls that are posted as limited to a maximum period of four-hour parking, with no monetary charge.

(m) Lot 4, which is all parking which lies east of Parking Lot 3 and Harrison Avenue and west of the Marina Park. Parking in Lot 4 is Port Orchard Marina parking, subject to city enforcement via an interlocal agreement between the city and the Port of Bremerton. Parking in Lot 4 shall require a paid parking pass issued by the Port of Bremerton except for stalls that are posted as limited to a maximum period of two-hour parking or four-hour parking, with no monetary charge.

(2) Parking restrictions in Lots 1, 2, 3, 4, 5, 6, 7, 8 and 9 shall be enforced on a 24-hour basis, except Saturday, Sunday, and federal holidays within the city.

(3) Violation of this section is a Class A infraction.

**10.12.460 Parking prohibited at all times.**

(1) When signs or markings are installed giving notice thereof, no person shall park a vehicle at any time upon any of the streets or parts of streets described as follows:

1. Advantage Avenue: on the west side of the north 350 feet of roadway and on the left-hand side, as the traffic flows, of the remainder of the street.

2. SW Alava Court: on the north side of the street.

3. Amherst Way SW: on both sides of the street.

4. SW Anchorage LN on the south side of the street.

54. Andasio Loop SE: on the outside curb along the entire loop.

65. Arnold Avenue E: along the west side of Arnold Avenue E, from the Lawrence Street intersection, to the northeast towards Bay Street, 100 feet.

76. Arnold Avenue E: along the east side of Arnold Avenue E, from the Bay Street intersection, to the south 66 feet.

87. Bay Street: at the intersection with Wharf Street (Mitchell Point), along the outside radius of the existing road as delineated by the established guardrail.

98. Bay Street: on the south side from Tracy Avenue, westerly for a distance of 200 feet.

109. Bay Street: on the north side, from the DeKalb Street pedestrian pier westerly



for 70 feet and in front of  
501 Bay Street.

~~110~~. Bay Street: at the southwest corner  
of the intersection with  
Arnold Avenue E, from  
the point of curvature to  
the point of tangency of  
the curve radius.

~~121~~. Bay Street: on the south side from  
Dekalb Street, 130 feet to  
the east.

~~132~~. Becky  
Avenue: on both sides of street,  
from Dallas Street south  
to dead end.

~~143~~. Bethel  
Avenue: on the west side from the  
driveway at 1130 Bethel  
Avenue, 245 feet north.

~~154~~. SW Bigler  
Way: on the south side of the  
street.

~~165~~. Bittern  
Lane: on both sides of the street  
from McCormick Village  
Drive to Wandering Way.

~~176~~. SW  
Blackburn Lane: on the south side of the  
street.

~~187~~. Bravo  
Terrace: on the east side, from the  
Bravo Terrace intersection  
south to the end of cul-  
de-sac.

~~197~~. Bristol Lane  
SE: on the east side of the  
street.

~~2018~~. SW Cardiff  
Street: on the south side of the  
street.

~~2119~~. Castleton  
Road SW: on both sides of the  
street.

~~220~~. Cedar  
Canyon: on both sides of the street  
within 100 feet of the  
Tremont Street right-of-  
way.

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- ~~231~~. Chanting Circle SW: on both sides of street, from Old Clifton Road 260 feet. Then on the east side to Chanting Circle. Then along the inside curb of the remaining part of Chanting Circle.
- ~~242~~. Chatterton Avenue SW: on the west side of street.
- ~~253~~. Chowchilla Way: on the south side of street.
- ~~264~~. SW Colbert Way: on left-hand side of street as the traffic flows, from Pickford Place SW to Chatterton Avenue SW.
- ~~275~~. Currant Lane SW: on the west side of the street.
- ~~286~~. Dallas Street: on the right-hand side, as the traffic flows.
- ~~297~~. DeKalb Street: on south side from Cline Avenue easterly to dead end.
- ~~3028~~. DeKalb Street: on the south side, from Sidney Avenue westerly for a distance of 100 feet.
- ~~3129~~. DeKalb Street: on the north side, from Tracy Avenue easterly to the end of DeKalb Street.
- ~~320~~. DeKalb Street: on the south side, from Mitchell Avenue to the east side of Tracy Avenue.
- ~~331~~. Donna Street: on the south side of street.
- ~~342~~. Donnegal Circle SW: on both sides of the street.
- ~~353~~. Egret Street: on the south side of the street.
- ~~364~~. Explorer Ave: on the inside radius of the street.

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- ~~375~~. Fantail Place: on the east side of the street.
- ~~386~~. Farragut Avenue: on both sides, from DeKalb Street to Morton Street; except, on the east side, 160 feet north of DeKalb Street.
- ~~397~~. SW Fielder Place: on the west side including the cul-de-sac.
- ~~4038~~. Fiscal Street: on the south side of the street.
- ~~4139~~. Forest Park Street: on both sides of the street.
- ~~429~~. Glenmore Loop: on the inside radius of the entire loop.
- ~~431~~. Glenwood Road SW: on the north side, from Sidney Road 350 feet west.
- ~~442~~. Great Glen Road SW: on the south side, from Telford Way SW easterly for a distance of 200 feet. From this point, on the west side of the street to SW Alava Court.
- ~~453~~. Great Glen Road SW: on the east side, from SW Alava Court to Gleneagle Avenue SW.
- ~~464~~. Grebe Way: on the north side, from Siskin Circle to Swift Avenue.
- ~~475~~. Guy Wetzel Street: on both sides from Bay Street to Perry Avenue.
- ~~486~~. Hales Court SW: on both sides of the street.
- ~~497~~. Hibiscus Circle SW: on the outside radius of the entire circle.
- ~~5048~~. Huntington Street: on both sides from Olney Avenue to Glenmore Loop and the north side from

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	Glenmore Loop to west end terminus.
<del>5149</del> . Jabirin Way:	on the north side of street.
<del>520</del> . Keppel Loop SW:	on both sides of the street.
<del>531</del> . Kinross Road SW:	on the east side of the street.
<del>542</del> . Koda Circle:	along fire lanes where marked/posted.
<del>553</del> . Ladd Court SW:	on both sides of the street.
<del>564</del> . Landis Court SW:	on the northeast side.
<del>575</del> . Lawrence Street:	on both sides of the street.
<del>586</del> . Lazuli Street:	on the south side, from Wigeon Avenue to Siskin Circle.
<del>597</del> . Limerick Drive SW:	on both sides of the street.
<del>6058</del> . Lippert Drive:	on both sides, from Pottery Avenue to Advantage Street.
<del>6159</del> . Lloyd Parkway:	on both sides from SW Old Clifton Road to Lumsden Road.
<del>620</del> . Lone Bear Drive:	on both sides from Feigley Road to 100 feet west of Chatterton Avenue SW.
<del>631</del> . Longview Avenue:	on east side of street.
<del>64</del> . <u>SE Lovell Street:</u>	<u>on the north side, from SE Russell Avenue to Wendell Avenue SE</u>
<del>652</del> . Lowren Street:	on the right-hand side, as the traffic flows on the

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	one-way portion of the street.
<del>663.</del> Lumsden Road:	on both sides of the street.
<del>674.</del> SE Markwick Road:	on both sides of the street.
<del>685.</del> Marymere Road SW:	on the south side, between Telford Way SW and Marymere Road SW.
<del>696.</del> Marymere Road SW:	on the west side, from SW Alava Court to Great Glen Road SW.
<del>7067.</del> Mitchell Avenue:	on both sides, from Bay Street to Kitsap Street.
<del>71.</del> SW Mooring Lane:	<u>on the south side of the street.</u>
<del>7268.</del> Murrelet Avenue:	on both sides, from Old Clifton Road to Siskin Circle.
<del>7369.</del> SE Nordmann Loop:	on the outside curb of the entire loop.
<del>7470.</del> SW Old Clifton Road:	on both sides from Chanting Circle SW to Campus Parkway.
<del>751.</del> Olivine Drive SW:	on both sides of the street.
<del>762.</del> SW Pendleton Way:	on the south side of the street.
<del>773.</del> Perry Avenue:	on the west side of the street <u>from Lawrence Street to Guy Wetzel Street.</u>
<del>78.</del> Perry Avenue:	<u>on the east side 50' north and 50' south of Guy Wetzel Street.</u>
<del>749.</del> SW Perth Place:	on the south side of the street.

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~~7580~~. Pickford Place SW: on the left-hand side as the traffic flows on the street, from SW Colbert Way to end of cul-de-sac.

~~81~~. SW Pier Lane: on the south side of the street.

~~7682~~. Plisko Avenue: on both sides, from Mitchell Avenue to Mile Hill Drive.

~~7783~~. Pottery Avenue: on both sides of the street, within 100 feet of the Tremont Street right-of-way.

~~8478~~. Prospect Street: on the inside radius of the curve between Robert Geiger Street and Frederick Avenue.

~~85~~. Reef Road SW: on the outside radius and on the inside radius of the SW corner for approximately 135 feet and the inside radius of the NW curve at Reef Road SW and Wandering Way for approximately 135 feet.

~~8679~~. Retsil Road: on the west side, from the north corporate limits to the south property line of 982 Retsil Road.

~~897~~. Robert Geiger Street: other than official city vehicles, parking is prohibited at all times along the south side, from Bay Street to Prospect Street.

~~818~~. Rockwell Avenue: on both sides, from Bay Street to Kitsap Street.

~~892~~. Ross Street: on the south side of the 400 block.

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<u>9083</u> . Sage Court:	on both sides of street.
<u>9184</u> . Sage Street:	on both sides from Pottery Avenue east for a distance of 70 feet and on the left-hand side, as the traffic flows, on the remainder of the street.
<u>9285</u> . Seattle Avenue:	on the east side, from Bay Street southerly for a distance of 82 feet.
<u>9386</u> . SW Sedge St:	On the north side of the street including the cul-de-sac.
<u>9487</u> . Sherman Avenue:	on the east side of the 1200-1300 block from the dead end 980 feet north.
<u>9588</u> . Sidney Avenue:	on the west side from Bay Street to Prospect Street.
<u>9689</u> . Siskin Circle:	on the inside curb of Siskin Circle throughout the circle.
<u>9790</u> . Snowridge Avenue:	on the left-hand side, as the traffic flows on the street.
<u>981</u> . Sprague Street:	on the right-hand side, as the traffic flows on the one-way portion of the street.
<u>992</u> . Sroufe Street:	on the south side, from Sidney Avenue to Portland Avenue.
<u>10093</u> . SW Stanwick Way:	on the right-hand side of street as the traffic flows, from Lone Bear Drive to Pickford Place SW.
<u>10194</u> . Strathmore Circle SW:	on outside of circle traveling either direction.

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10295. SW Sunnyside Street: on the south side of the street.
10396. Sweany Street: on the north side, from Cline Avenue westerly for a distance of 340 feet.
10497. Sweany Street: on the south side, from Sidney Avenue westerly for a distance of 200 feet.
10598. Swift Avenue: on west side, from Siskin Circle to Lazuli Street.
10699. Thornhill Avenue SW: on the south side of the street.
1079. Tremont Place: on both sides of street from 233 Tremont Place driveway to end of road guardrail.
1081. Tremont Street: on both sides of the street, within 100 feet of Pottery Avenue right-of-way.
1092. Vardon Circle SW: on both sides of the street.
11003. Viridian Avenue SW: on both sides of the street.
111. Vivian Court: on both sides of the street.
11204. Wandering Way: on both sides from McCormick Village Drive westward 100 feet~~on the outside radius of the street.~~
11305. Warbler Way: on both sides of street from Old Clifton Road to Siskin Circle.
11406. Warbler Way: from Siskin Circle to curve (park) on south side and on east side from curve (park) to Grebe Way.



~~11507~~. Waverly Rd SW: on the west side of the street.

~~11608~~. Wilkins Drive: on both sides, from the west terminus, eastward 350 feet.

(2) Violation of this section is a Class A infraction.

**10.12.500 Parking time limited on certain city parking lots.**

(1) The city parking lots are identified as follows:

(a) Lot 2, which lies between Frederick Street and Sidney Avenue, north of Bay Street. Parking in Lot 2 shall be allowed for a maximum period of four hours, including two car charging stalls limited to four hours maximum, and one motorcycle stall.

(b) Lot 5, which is all parking spaces on City Hall property (first floor entry). Parking in Lot 5 shall be for City Hall ADA parking patrons and official vehicles only. The police chief or their designee may authorize deviations to this policy for Lot 5, if necessary. No monetary charge.

(c) Lot 6, which is all parking spaces abutting the landscaped area at the southwest corner of the intersection of Bay Street and DeKalb Street (Bayside Plaza). Parking in Lot 6 shall be allowed for a maximum period of two hours. No monetary charge.

(d) Lot 7, which is all parking spaces located on the library property. Parking in Lot 7 shall be limited to library staff only. Access to Lot 7 and parallel parking stalls via the adjacent parcel to the south pursuant to easement AF# (8903310122). No monetary charge.

(e) Lot 8, which lies east of City Hall, north of and adjacent to Prospect Alley (between Kitsap Street and Prospect Street). Lot 8 is for designated city vehicles and city employees via pass Monday through Friday. No monetary charge.

(f) Lot 9, 720 Prospect Street, which lies east of Lot 8, north of and adjacent to Prospect Alley (between Kitsap Street and Prospect Street). Lot 9 is for designated vehicles and city employees via pass Monday through Friday. No monetary charge.

(g) Lot 10, which lies on the east side of McCormick Village Drive between SW Old Clifton Road and SW Yarrow Street. Parking in Lot 10 shall be allowed for a maximum period of four hours, enforced on a 24-hour basis.

Ordinance Amending Chapter 10.12 – Redline of Code Amendments

(h) Paul Powers Park, which lies north and east of the public works department “south shed” located at 2051 Sidney Avenue. Paul Powers Park parking is limited to dawn-to-dusk parking only.

(i) Van Zee Park, which lies south of Tremont Street and west of Sidney Avenue, located at 300 Tremont Street. Van Zee Park parking is limited to dawn-to-dusk parking only.

(j) Rockwell Pocket Park will be limited to two-hour parking from dawn to dusk.

(k) Lot 1, which lies between Orchard and Frederick Streets, on the north of Bay Street. Parking in Lot 1 is Port Orchard Marina parking, subject to city enforcement via an interlocal agreement between the city and the Port of Bremerton. Parking in Lot 1 shall require a paid parking pass issued by the Port of Bremerton.

(l) Lot 3, which is the five rows of parking and the row of waterfront parking west of Harrison Avenue and east of and parallel to the library’s easternmost exterior wall. Parking in Lot 3 is Port Orchard Marina parking, subject to city enforcement via an interlocal agreement between the city and the Port of Bremerton. Parking in Lot 3 shall require a paid parking pass issued by the Port of Bremerton except for stalls that are posted as limited to a maximum period of four-hour parking, with no monetary charge.

(m) Lot 4, which is all parking which lies east of Parking Lot 3 and Harrison Avenue and west of the Marina Park. Parking in Lot 4 is Port Orchard Marina parking, subject to city enforcement via an interlocal agreement between the city and the Port of Bremerton. Parking in Lot 4 shall require a paid parking pass issued by the Port of Bremerton except for stalls that are posted as limited to a maximum period of two-hour parking or four-hour parking, with no monetary charge.

(2) Parking restrictions in Lots 1, 2, 3, 4, 5, 6, 7, 8 and 9 shall be enforced on a 24-hour basis, except Saturday, Sunday, and federal holidays within the city.

(3) Violation of this section is a Class A infraction.



## **Agenda Staff Report**

Agenda Item No.: Business Item 7B

Meeting Date: June 11, 2024

Subject: Adoption of an Ordinance Modifying  
POMC Chapter 2.04 Pertaining to City  
Council Meeting Rules of Procedure

Prepared By: Charlotte Archer  
City Attorney

**Summary:** The conduct of the City Council’s meetings is governed by the Washington Open Public Meetings Act (OPMA), Chapter 42.30 RCW, as well as the City Council’s adopted rules of procedure, codified at Chapter 2.04 of the Port Orchard Municipal Code. As adopted at POMC 2.04.230, the Council utilizes Robert’s Rules of Order to facilitate discussions and decision-making processes and has adopted additional rules at Chapter 2.04 where Robert’s Rules are silent or where the Council deemed appropriate to facilitate business. At its recent retreat, the City Council identified modifications to Chapter 2.04 that would better serve the Council and the public. These include the following:

- POMC 2.04.060: Consolidating all public comment to one period at the beginning of the meeting and removing the second comment period from the end of the meeting, to allow members of the public to speak prior to the conduct of Council business;
- POMC 2.04.040, 2.04.180, and 2.04.220: Modifications to the procedures for “adjournment” to allow for the conclusion of the meeting when business has concluded, without a redundant motion by Council (a discussion of adjournment practices is included in the attached materials); and
- POMC 2.04.100: The removal of “council sponsors” from legislation as an unnecessary procedure.

Notably, in 2016 by a previous Resolution the City Council adopted additional rules for the conduct of public comment at Resolution No. 030-16, which also identify two public comment periods. Per the direction of the Council at its retreat, a parallel action to amend that Resolution is pending before the City Council for this Council Meeting.

In preparing these requested amendments, staff identified other provisions of Chapter 2.04 that are no longer followed due to obsolescence, and some that require updating due to changes in law. These include the following:

- 
- POMC 2.04.020: Acknowledgement that the Council is empowered to supplement the rules stated at Chapter 2.04 POMC by Resolution or motion;
  - POMC 2.04.040: Amendment to allow the clerk to adjourn in the event there is no quorum present (permitted under the OPMA);
  - POMC 2.04.070 and 2.04.090: To remove sections that are no longer enforced and unnecessary;
  - POMC 2.04.160: To clarify that members shall recuse when there is a conflict of interest (discussed in the attached materials);
  - POMC 2.04.170: To add reference to special meetings and to clarify the authorized use of an executive session consistent with RCW 42.30.110); and
  - POMC 2.04.210: To eliminate language that purports to limit the Council's authority (as the Council may choose to act or refrain from acting, at any time, and that right is not dependent on the presence of the Mayor or staff).

**Recommendation:** Staff recommend adoption of the ordinance to make the requested code amendments.

**Relationship to Comprehensive Plan:** N/A

**Motion for consideration:** "I move to adopt an Ordinance amending POMC Chapter 2.04, regarding City Council meetings."

**Fiscal Impact:** None anticipated.

**Alternatives:** Do not approve and provide alternative guidance.

**Attachments:** Ordinance  
Redline of Code Amendments  
MRSC Handout on Adjournment  
MRSC Handout on Conflict of Interest

**ORDINANCE NO. 0xx-24**

**AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, RELATING TO CITY COUNCIL MEETINGS; REPEALING PORT ORCHARD MUNICIPAL CODE SECTIONS 2.04.070 AND 2.04.090, AND AMENDING PORT ORCHARD MUNICIPAL CODE SECTIONS 2.04.020, 2.04.040, 2.04.060, 2.04.100, 2.04.120, 2.04.160, 2.04.170, 2.04.180, 2.04.210, AND 2.04.220; PROVIDING FOR SEVERABILITY AND CORRECTIONS; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council has adopted rules for the conduct of its meetings, which are codified at Port Orchard Municipal Code Chapter 2.04; and

**WHEREAS**, at its recent retreat, the City Council requested modifications to these rules to further the efficient and effective conduct of meetings; and

**WHEREAS**, additionally, staff audited Chapter 2.04 and proposed amendments to update certain provisions to enhance clarity, and to reflect current practices as well as changes in law; and

**WHEREAS**, the City Council has reviewed the proposed amendments and believes it to be in the best interests of the City to enact the proposed amendments; **now therefore**

**THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON, DOES ORDAIN AS FOLLOWS:**

**SECTION 1. Repealer.** Sections 2.04.070, 2.04.090, and of the Port Orchard Municipal Code are hereby repealed in their entirety.

**SECTION 2. Amendment.** Section 2.04.020 of the Port Orchard Municipal Code is amended to read follows:

**2.04.020 Rules of procedure.**

The rules of procedure contained in this chapter, and as may adopted by Council by Resolution, shall govern deliberations, meetings, and the conduct of the council.

**SECTION 3. Amendment.** Section 2.04.040 of the Port Orchard Municipal Code is amended to read follows:

**2.04.040 Quorum.**

At all meetings of the council, a majority of the council members shall constitute a quorum for the transaction of business, but in the absence of a quorum a less number may adjourn any meeting to a later time or date, and in the absence of all members the clerk may adjourn any meeting to a later time or date.

**SECTION 4. Amendment.** Section 2.04.060 of the Port Orchard Municipal Code is amended to read follows:

**2.04.060 Order of business.**

The order of business for regular meetings shall be as follows:

- (1) Call to order and roll call;
  - (a) Pledge of allegiance;
- (2) Approval of agenda;
- (3) Public comments;
- (4) Approval of consent agenda;
- (5) Presentations;
- (6) Public hearings;
- (7) Business items;
- (8) Council committees' reports;
- (9) Mayor's report;
- (10) Department directors' reports;
- (12) Executive session;
  - (a) Motions as a result of executive session;
- (13) Adjournment;
- (14) Committee meetings, date, time, and location.

**SECTION 5. Amendment.** Section 2.04.100 of the Port Orchard Municipal Code is amended to read follows:

**2.04.100 Motions in writing.**

Motions shall be reduced to writing when required by the presiding officer of the council or any member of the council. All resolutions and ordinances shall be in writing.

**SECTION 6. Amendment.** Section 2.04.120 of the Port Orchard Municipal Code is amended to read follows:

**2.04.120 Journal kept by clerk.**

The clerk shall keep a correct journal of all proceedings, which shall be a public record, and at the desire of any member the ayes and nays shall be taken on any question and entered in the journal. The journal shall reflect action taken only when at regular and special meetings. Work study sessions shall reflect a brief summary.

**SECTION 7. Amendment.** Section 2.04.160 of the Port Orchard Municipal Code is amended to read follows:

**2.04.160 Voting required by council member.**

Each member present must vote on all questions put to the council, except as to matters with respect to which such council member has a conflict of interest; matters presented for council consideration by an entity other than the city in which the council's determination is advisory only; or meeting minutes of a meeting the council member did not attend. For the purposes of this section, a member is considered present when appearing remotely in accordance with POMC 2.04.045.

**SECTION 8. Amendment.** Section 2.04.170 of the Port Orchard Municipal Code is amended to read follows:

**2.04.170 Public meetings.**

All regular and special meetings of the council shall be public, and no ordinance, resolution, rule, regulation, order or directive shall be adopted except in a meeting open to the public, the date of which is fixed by the council, law, or rule. Pursuant to state law, closed and, executive sessions, from which the public is excluded, may be held for any authorized purpose.

**SECTION 9. Amendment.** Section 2.04.180 of the Port Orchard Municipal Code is amended to read follows:

**2.04.180 Motion for adjournment.**

A motion for adjournment shall be always in order, provided the chair may adjourn the meeting at the conclusion of business without a motion, and adjournment is authorized as set forth in POMC 2.04.040.

**SECTION 10. Amendment.** Section 2.04.210 of the Port Orchard Municipal Code is amended to read follows:

**2.04.210 City employees requested to attend.**

The chair shall ensure that all regular meetings, workshops, special and emergency meetings of the council are appropriately staffed. The mayor or designee may authorize remote attendance by employees, at the mayor or designee's discretion.

**SECTION 11. Amendment.** Section 2.04.220 of the Port Orchard Municipal Code is amended to read follows:

**2.04.220 Duty of presiding officer.**

It shall be the duty of the presiding officer of the regular council meeting to:

- (1) Call the meeting to order;
- (2) Keep the meeting to its order of business;
- (3) State each motion and require a second to that motion before permitting discussion;
- (4) Handle discussion in an orderly way:
  - (a) Give every council member who wishes an opportunity to speak;
  - (b) Permit audience participation at appropriate times;
  - (c) Keep all speakers to the rules and to the questions;
  - (d) Give pro and con speakers alternating opportunities to speak;
- (5) Put motions to a vote and announce the outcome;
- (6) Suggest but not make motions for adjournment and adjourn the meeting at the conclusion of business.



**SECTION 12. Severability.** If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of constitutionality of any other section, sentence, clause or phrase of this ordinance.

**SECTION 13. Corrections.** Upon approval of the city attorney, the city clerk and the codifiers of this ordinance are authorized to make necessary technical corrections to this ordinance, including, without limitation, the correction of clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or section/subsection numbering.

**SECTION 14. Effective Date.** This ordinance shall be in full force five days after posting and publication. A summary of this ordinance may be published in lieu of publishing the ordinance in its entirety.

**PASSED** by the City Council of the City of Port Orchard, Washington at its regular meeting on the 11th of June 2024 and approved by the Mayor and attested by the Clerk in authentication of such passage this date here.

\_\_\_\_\_  
Robert Putaansuu, Mayor

ATTEST:

\_\_\_\_\_  
Brandy Wallace, MMC, City Clerk

APPROVED AS TO FORM ONLY:

Sponsored by:

\_\_\_\_\_  
Charlotte A. Archer, City Attorney

\_\_\_\_\_  
Jay Rosapepe, Council Member

**Chapter 2.04**  
**COUNCIL MEETINGS\***

Sections:

- 2.04.010 Meeting time and place.
- 2.04.015 Notifications of hearings and agendas for council meetings.
- 2.04.020 Order of procedure.
- 2.04.030 Special meetings.
- 2.04.040 Quorum.
- 2.04.045 Remote attendance.
- 2.04.050 Mayor and city clerk.
- 2.04.060 Order of business.
- 2.04.070 Presentation of subjects.
- 2.04.080 Addressing council by nonmember.
- 2.04.090 Fine for failure to attend meetings.
- 2.04.100 Motions in writing.
- 2.04.110 Motions to reconsider.
- 2.04.120 Journal kept by clerk.
- 2.04.130 Questions of order.
- 2.04.140 Council member taking chair from presiding officer.
- 2.04.150 Motion to lay matter on the table.
- 2.04.160 Voting required by council member.
- 2.04.170 Public meetings.
- 2.04.180 Motion for adjournment.
- 2.04.190 Amendment or suspension of council rules.
- 2.04.200 Reports to council by committee chair.
- 2.04.210 City employees requested to attend.
- 2.04.220 Duty of presiding officer.
- 2.04.225 *Repealed.*
- 2.04.230 Rules of order.
- 2.04.235 Endorsements.
- 2.04.240 *Repealed.*

\* Statutory authority, see Chapter 35A.12 RCW.

**2.04.010 Meeting time and place.**

The city council shall hold a minimum of one meeting per month. The city council shall determine the annual schedule for these meetings for the next calendar year no later than the last regular business meeting of the preceding calendar year. Regular meetings are typically held on the second and fourth Tuesdays, in the council chambers of City Hall or by video conferencing and telephone when required by federal, state or local officials and permitted consistent with the Open Public Meetings Act, Chapter 42.30 RCW, commencing at the hour of 6:30 p.m. and continuing to 9:30 p.m. To continue past the 9:30 p.m. adjournment time, a majority of the city council must concur. The work study session meetings are typically held on the third Tuesday, in the council chambers of City Hall or by video conferencing and telephone when required by federal, state or local officials and permitted consistent with the Open Public Meetings Act, Chapter 42.30 RCW, commencing at the hour of 6:30 p.m. The city council may select an alternate time and/or place (other than City Hall, or video conferencing and telephone) for any regular or work study session meeting if public notice of such meeting has been given pursuant to the provisions of RCW 42.30.080 as now or hereafter amended. In the event any scheduled meeting falls on a holiday, the city council shall meet on the next business day at the same hour.

**2.04.015 Notifications of hearings and agendas for council meetings.**

(1) Notices of Public Hearings. Except where a specific method of giving notice of public hearings is otherwise provided by statute or ordinance, reasonable notice of upcoming public hearings to be conducted by the city council shall be given by delivering to the city's official newspaper, not less than seven days before the date set for hearing,

a notice setting forth the time, place, date and subject matter of each such public hearing. In addition, a copy of said notice shall be posted on the bulletin board in the foyer of the City Hall of the city of Port Orchard, not less than seven days before the date set for the hearing described therein.

(2) Preliminary Agenda of City Council Meeting. The public shall be notified of the preliminary agenda for all forthcoming city council meetings by posting a copy of each preliminary agenda on the bulletin board in the foyer of City Hall at least 24 hours in advance of the meeting. In addition, a copy of each preliminary agenda shall be made available to the official newspaper and posted on the city's website not less than 24 hours before the city council meeting.

(3) City Clerk to Provide Notice. The city clerk of the city of Port Orchard is hereby directed to post notices as required by this section.

**2.04.020 ~~Order~~ Rules of procedure.**

The ~~order rules~~ of procedure contained in this chapter, and as may adopted by Council by Resolution, shall govern deliberations, ~~and meetings~~, and conduct of the council.

**2.04.030 Special meetings.**

Special meetings may be called by the mayor or any three members of the city council by written notice delivered to each member of the council at least 24 hours before the time specified for the proposed meeting. All actions that have heretofore been taken at special council meetings held pursuant to this section, but for which the number of hours of notice given has been at variance with the requirements of RCW 42.30.080, are hereby validated. All council meetings shall be open to the public except as permitted by Chapter 42.30 RCW. No ordinance or resolution shall be passed, or contract let or entered into, or bill for the payment of money allowed at any meeting not open to the public, nor at any public meeting the date of which is not fixed by ordinance, resolution, or rule, unless public notice of such meeting has been given by such notice to each local newspaper of general circulation and to each local radio or television station, as provided in RCW 42.30.080 as now or hereafter amended

**2.04.040 Quorum.**

At all meetings of the council, a majority of the council members shall constitute a quorum for the transaction of business, but in the absence of a quorum a less number may adjourn ~~from time to time any meeting to a later time or date, and in the absence of all members the clerk may adjourn any meeting to a later time or date and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance.~~

**2.04.045 Remote attendance.**

Council members may attend up to four regular, special or work-study session meetings per year via video conferencing or telephone ("remote attendance"), provided the mayor, or in the mayor's absence the mayor pro tem (the "presiding officer"), may approve council members' remote attendance in excess of four under the following circumstances:

- (1) When action on a measure to be voted on should not be delayed but rather requires action or remedy; and
- (2) The remote attendance is for the benefit of the city and not for the benefit of an individual council member; and
- (3) In the event of a fire, flood, earthquake, or other emergency relating to public health and safety.

**2.04.050 Mayor and city clerk.**

All meetings of the city council shall be presided over by the mayor, or in the mayor's absence by the mayor pro tem, or deputy mayor if one has been appointed, or by a member of the council selected by a majority of the council members at such meeting. Appointment of a council member to preside over the meeting shall not in any way abridge their right to vote on matters coming before the council at such meeting. In the absence of the city clerk, a deputy clerk or other qualified person appointed by the clerk, the mayor, or the council may perform the duties of clerk at such meeting.

**2.04.060 Order of business.**

The order of business for regular meetings shall be as follows:

- (1) Call to order and roll call;
  - (a) Pledge of allegiance;
- (2) Approval of agenda;
- (3) Citizens' comments;
- (4) Approval of consent agenda;
- (5) Presentations;
- (6) Public hearings;
- (7) Business items;
- (8) Council committees' reports;
- (9) Mayor's report;
- (10) Department directors' reports;

~~(11) Citizens' comments;~~

(1~~2~~) Executive session;

- (a) Motions as a result of executive session;

(1~~3~~) Adjournment;

(1~~3~~4) Committee meetings, date, time, and location.

~~**2.04.070 — Presentation of subjects.**~~

~~No member shall speak more than twice on the same subject without permission of the presiding officer. (Ord. 755 § 7, 1966).~~

**2.04.080 Addressing council by nonmember.**

No person, not a member of the council, shall be allowed to address the same while in session without the permission of the presiding officer.

~~**2.04.090 — Fine for failure to attend meetings.**~~

~~Every officer, whose duty it is to report at the regular meetings of the council, shall, in default thereof, be fined at the discretion of the council. (Ord. 755 § 9, 1966).~~

**2.04.100 Motions in writing.**

Motions shall be reduced to writing when required by the presiding officer of the council or any member of the council. All resolutions and ordinances shall be in writing. ~~Ordinances shall have a sponsoring council member.~~

**2.04.110 Motions to reconsider.**

Motions to reconsider must be by a member who voted with the majority, and at the same or next succeeding meeting of the council.

**2.04.120 Journal kept by clerk.**

The clerk shall keep a correct journal of all proceedings, which shall be a public record, and at the desire of any member the ayes and nays shall be taken on any question and entered in the journal. The journal shall reflect action taken only when at regular and special meetings. Work study sessions shall reflect a brief summary.

**2.04.130 Questions of order.**

All questions of order shall be decided by the presiding officer of the council with the right of appeal to the council by any member.

**2.04.140 Council member taking chair from presiding officer.**

The presiding officer of the council may, at their discretion, call any member to take the chair to allow them to address the council, make a motion, or discuss any other matter at issue.

**2.04.150 Motion to lay matter on the table.**

Motions to lay any matter on the table shall be first in order. On all questions, the last amendment, the most distant day, and the largest sum shall be put first.

**2.04.160 Voting required by council member.**

Each member present must vote on all questions put to the council, except as to matters with respect to which such council member has a ~~conflict of interest~~~~personal financial interest~~; matters presented for council consideration by an entity other than the city in which the council's determination is advisory only; or meeting minutes of a meeting the council member did not attend. For the purposes of this section, a member is considered present when appearing remotely in accordance with POMC 2.04.045.

**2.04.170 Public meetings.**

All regular ~~and special~~ meetings of the council shall be public, and no ordinance, resolution, rule, regulation, order or directive shall be adopted except in a ~~regular~~ meeting open to the public, the date of which is fixed by ~~the council,~~ law, or rule; ~~Pursuant to state law, closed and but,~~ executive sessions, from which the public is excluded, may be held for ~~any authorized~~ purpose, ~~s other than the final adoption of an ordinance, resolution, rule, regulation, order or directive.~~

**2.04.180 Motion for adjournment.**

A motion for adjournment shall be always in order, ~~provided the chair may adjourn the meeting at the conclusion of business without a motion, and adjournment is authorized as set forth in POMC 2.04.040.~~

**2.04.190 Amendment or suspension of council rules.**

The rules of the council may be altered, amended, or temporarily suspended by a vote of two-thirds of the members present.

**2.04.200 Reports to council by committee chair.**

The chair of each respective committee, or the council member acting in their place, shall submit or make all reports to the council when so requested by the presiding officer or any member of the council.

**2.04.210 City employees requested to attend.**

The chair shall ~~assure~~~~ensure~~ that all regular meetings, workshops, special and emergency meetings of the council are appropriately staffed. The mayor or designee may authorize remote attendance by employees, at the ~~mayor or designee's~~ discretion. ~~While the authority for requiring department heads to attend council meetings rests with the mayor, the council is free to refuse to take action on particular agenda items where necessary department directors are not present.~~

**2.04.220 Duty of presiding officer.**

It shall be the duty of the presiding officer of the regular council meeting to:

- (1) Call the meeting to order;
- (2) Keep the meeting to its order of business;
- (3) State each motion and require a second to that motion before permitting discussion;
- (4) Handle discussion in an orderly way:
  - (a) Give every council member who wishes an opportunity to speak;

- (b) Permit audience participation at appropriate times;
  - (c) Keep all speakers to the rules and to the questions;
  - (d) Give pro and con speakers alternating opportunities to speak;
- (5) Put motions to a vote and announce the outcome;
- (6) Suggest but not make motions for ~~adjournment~~ adjournment and adjourn the meeting at the conclusion of business.

**2.04.225 Committees established.**

*Repealed by Ord. 1934. (Ord. 1923 §§ 3, 4, 2003).*

**2.04.230 Rules of order.**

Robert's Rules of Order, Revised, shall govern the deliberations of the council except when in conflict with any of the rules set forth in this chapter. (Ord. 755 § 23, 1966).

**2.04.235 Endorsements.**

The city council will not endorse or oppose a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition placed on a ballot for the vote of the people. Individual endorsement or opposition by individual council members shall only be made in compliance with RCW 42.17A.555, as amended, and shall be clearly identified as the statement of an individual citizen. (Ord. 027-23 § 1).

**2.04.240 Council committees.**

*Repealed by Ord. 004-06. (Ord. 1934 § 2, 2004).*



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> [Best Laid Plans: Following the OPMA When Adjourning or Canceling a Public Meeting](#)

## Best Laid Plans: Following the OPMA When Adjourning or Canceling a Public Meeting

December 4, 2023 by [Sarah Doar](#)

Category: [Open Public Meetings Act](#)



There may be many reasons why a public meeting needs to be rescheduled or continued to a later date — everything from bad weather, an emergency at the meeting location, lack of a quorum, or anything else that might disrupt the conduct of public business.

Fear not, the Open Public Meetings Act (OPMA) provides a relatively straightforward procedure through which a public meeting can quickly be moved to a later time. The procedure, which is outlined in [RCW 42.30.090](#), allows a public agency to adjourn any type of public meeting to a later time and place.

A quick word about terminology: While “adjourn” might be commonly understood to mean simply ending a meeting, Merriam-Webster [defines adjourn](#) as “to suspend a session indefinitely or to another time or place.” So, to adjourn a meeting under [RCW 42.30.090](#) really can be understood as continuing a meeting.

### Who Can Adjourn a Meeting?

If present, a quorum of the governing body of a public agency may adjourn any type of public meeting — regular or special — to a stated time and place. Under [RCW 42.30.090](#), less than a quorum of the governing body may similarly adjourn any type of public meeting, provided that a majority of members are absent.

If *all* members of the governing body are absent from a regular meeting or an adjourned regular meeting, the clerk or secretary of the governing body may adjourn the meeting to a stated time and place. A special meeting, however, cannot be adjourned by the clerk — at least one member of the governing body must be present.

### How Can a Public Meeting be Adjourned?

If a quorum or less of a governing body adjourns the public meeting, then it must prepare an order of adjournment that specifies the time and place of the resulting rescheduled meeting. Unless the meeting is remote without a physical location, the order must be posted immediately on or near the door of the original meeting location.

If the meeting is adjourned by the governing body's clerk or secretary, this person must create a written notice of adjournment specifying the time and place of the rescheduled meeting. Public notice must then be given in the same manner as required for a special meeting under [RCW 42.30.080](#). In other words, an announcement must be posted to the agency's website (or a shared website), signage must be displayed at the main entrance of the agency's principal location and immediately at the meeting location (if not held at the principal location), and notice must be sent to any local newspaper, radio, or television station that has a request on file to receive meeting notifications.

### When Can a Public Meeting be Adjourned?

A governing body can, by majority vote, adjourn any public meeting during that meeting. The statute also says that "less than a quorum may so adjourn from time to time." MRSC interprets this procedure to be available only to those present at the time of the planned meeting, even if it is just the clerk. Since a "meeting," by definition, involves the intended interaction of a quorum to conduct agency business, this procedure cannot be used in advance.

### What Happens When a Public Meeting is Adjourned?

The adjourned meeting will take place at the time and place specified in the order or notice of adjournment. Depending on what type of meeting was adjourned, the meeting will be either an "adjourned special" or an "adjourned regular" meeting.

Note that, although it has a different name, an adjourned regular meeting is treated as if it were a regular meeting for all purposes, meaning that a governing body can take any action at an adjourned regular meeting that it would be able to take during a regular meeting.

The resulting adjourned meeting — regular or special — may also be adjourned again to a later time and place (if necessary) using the same adjournment procedure discussed above.

### Can a Meeting be Canceled in Advance?

Sometimes it's obvious that an issue, such as poor weather, will likely prevent many — including members of the governing body — from attending an upcoming public meeting. Although state law doesn't specifically address the



issue, MRSC has consistently concluded that a majority of the governing body may cancel an upcoming public meeting in advance and may even do so outside of a public meeting, just as a governing body may decide outside of a public meeting to hold a special meeting.

While state law does not require any specific procedure for canceling an upcoming meeting, MRSC recommends providing notice of the cancellation to the public in the same manner that notice is given for a special meeting under [RCW 42.30.080](#). To schedule a replacement meeting, either provide notice of the new time as part of that cancellation notice or provide it in a subsequent, separate notice that also follows the requirements in [RCW 42.30.080](#). Note that if the canceled meeting is being rescheduled to a time other than the time for regular meetings, you must treat the new meeting as a special meeting.

If the meeting to be canceled is a regular meeting and the governing body is intending to take action that state law requires be taken in a regular meeting, then [RCW 42.30.090](#)'s adjournment procedure should be used instead of a cancellation in advance, because the resulting rescheduled meeting will then qualify as a regular meeting.

### Additional Resource

MRSC covers meeting adjournment, cancelation, and rescheduling in the newly updated [Open Public Meetings Act](#) publication.

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*MRSC is a private nonprofit organization serving local governments in Washington State. Eligible government agencies in Washington State may use our free, one-on-one [Ask MRSC service](#) to get answers to legal, policy, or financial questions.*



#### About Sarah Doar

Sarah Doar joined MRSC in September 2018.

Most recently, she served as a Civil Deputy Prosecuting Attorney for Island County. At Island County, Sarah advised on many aspects of government business, including compliance with public record and opening meeting laws. She also defended the County in Growth Management Act and Land Use litigation. Prior to moving to Washington, Sarah practiced land use, environmental, and appellate law in Florida for over eight years.

Sarah holds a B.A. in Biology from Case Western Reserve University and a J.D. with a certificate in environmental and land use law from Florida State University College of Law.

[VIEW ALL POSTS BY SARAH DOAR](#)

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## Ethics and Conflicts of Interest

This page provides a basic overview of Washington State's ethics and conflict of interest laws that apply to municipal officers, including prohibited uses of public office, special privileges and exemptions, contract interests, remote interests, and exceptions.

For examples of local ethics codes that go above and beyond these minimum state prohibitions, see our page on [Local Codes of Ethics](#). For related court decisions and attorney general opinions, see our page [Conflicts of Interest: Court Decisions and AG Opinions](#).

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### Overview

[Chapter 42.23 RCW](#) prohibits municipal officers from using their positions to secure special privileges or special exemptions for themselves or others, and from entering into certain contracts or having other personal financial interests with their jurisdictions.

[RCW 42.23.020\(2\)](#) defines “municipal officer” rather broadly to include all elected and appointed officials, all deputies and assistants of such officials, and anyone exercising or undertaking to exercise the powers of those officials (such as city managers, city or county administrators, or special purpose district superintendents).

These rules apply to officers in all types of municipal and quasi-municipal corporations, including cities, towns, counties, and special purpose districts. A separate chapter of state law, [chapter 42.52 RCW](#), addresses financial conflicts and ethical issues for state officers and employees, but it does not apply to local governments.

Violating these rules can bring serious penalties, including monetary fines, nullification of contracts, and possible forfeiture of office.

Common sense can be a good guide in this area of the law, but sometimes gray areas can create confusion and uncertainty. If you are concerned about a specific situation, consult your legal counsel.

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## Prohibited Uses of Public Office

State law, codified at [RCW 42.23.070](#), governs the ethical conduct of county, city, and special purpose district officers and prohibits them from taking four types of action while in office. Specifically, municipal officers may not:

1. Use their position to secure special privileges or exemptions for themselves or others;
2. Give, receive, or agree to receive, directly or indirectly, any compensation, gift, reward, or gratuity from a source except the employing municipality, for a matter connected with or related to the officer's services as such an officer;
3. Accept employment or engage in business or professional activity that they might reasonably expect would require or induce them by reason of their official position to disclose confidential information acquired by reason of their official position; or
4. Disclose confidential information gained by reason of their position, nor may they otherwise use such information for their personal gain or benefit.

Only the first and fourth of the provisions of [RCW 42.23.070](#) have been interpreted by the courts and attorney general. (See our page [Conflicts of Interest Court Decisions and AG Opinions](#).)

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## Prohibited Contract Interests

[RCW 42.23.030](#) specifically prohibits a municipal officer, or their office, from directly or indirectly receiving a financial benefit from a contract if the contract is made by, through, or under the supervision of the municipal officer, in whole or in part. Any contract entered into by a municipality in violation of this prohibition is void.

Under [RCW 42.23.020\(3\)](#) "contract" is defined as any contract, sale, lease, or purchase, including a contract (written or unwritten) of employment. To see what courts and the attorney general have found to constitute a contract, see our page [Conflicts of Interest Court Decisions and AG Opinions](#).

A contract is made "by, through or under the supervision of the municipal officer" only when that municipal officer has the actual authority to enter

into the contract on behalf of the municipality. The prohibition applies broadly to members of the governing body, who are generally responsible for approving contracts, regardless of whether they voted on the contract or not. To see how courts and the attorney general have discussed when a contract is made “by, through or under the supervision” of a municipal officer, see our page [Conflicts of Interest Court Decisions and AG Opinions](#).

Although there are some exceptions for specific situations (see below), certain contract interests are prohibited in any situation. Specifically, a municipal officer who has authority over the making of the contract may never:

- Purchase or lease property from the same municipality;
- Contract for legal services with the same municipality, except for reimbursement of expenses; or
- Enter into any contract with the same municipality if the municipality is a county of 125,000 or more, a city of 1,500 or more, or an irrigation district encompassing more than 50,000 acres, or a first class school district.

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## Exceptions

Contract interests are allowed if the officer entered into the contract before assuming office. However, any future contract renewals or revisions would be subject to the restrictions of [chapter 42.23 RCW](#), since the contract would effectively be remade at that time.

[RCW 42.23.030](#) contains a number of very specific exceptions, allowing municipal officers to have contract interests with their municipalities in certain situations. Some of these exceptions apply to certain types of contracts, while others depend on the monetary value or the type and size of the municipality.

If an exception applies, the municipal officer must fully disclose the contract interest to the governing body, which must note the interest in its official minutes or similar records before approving the contract, and the municipal officer may not vote on the contract under any circumstances.

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## Remote Interests

Certain “interests” that municipal officers have in contracts made by, through, or under their supervision are not considered to fall under the prohibition in [RCW 42.23.030](#), but rather are considered “remote” interests under [RCW 42.23.040](#). A municipality may enter into contracts in which an officer who has authority over the making of the contract has a remote interest, provided certain conditions are met.

There are four types of remote interests, which exist only where the municipal officer is:

1. A non-salaried officer of a nonprofit corporation that is a contracting party;

2. An employee or agent of the contracting party, where the salary consists entirely of fixed wages or salary;
3. The landlord or tenant of the contracting party; or
4. Someone who holds less than 1% of the shares of a corporation or cooperative that is a contracting party.

“Contracting party” is defined in [RCW 42.23.020](#)(4).

A remote interest will only apply if all of the following conditions are met:

- The municipal officer discloses the remote interest to the governing body of the municipality prior to the formation of the contract;
- The remote interest is noted in the official minutes, or similar records, prior to the formation of the contract;
- The governing body, in good faith, approves the contract without counting the vote of the officer with the remote interest; and
- The officer with the remote interest did not influence or attempt to influence the decision of other municipal officers, who serve the same jurisdiction, related to the contract.

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## Relatives and Spouses

The prohibition in [RCW 42.23.030](#) does not apply to contracts with relatives of municipal officers unless that relative, such as a spouse or a minor child, has a legal interest in the earnings of the municipal officer. However, hiring or contracting with spouses may be allowed if the municipal officer and their spouse have entered into a separate property agreement.

Some municipalities have additional, more restrictive policies regarding [nepotism](#), or the hiring of or contracting with spouses and relatives.

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## Penalties

The consequences of violating [chapter 42.23 RCW](#) are severe. Any municipal officer who violates [chapter 42.23 RCW](#) is subject to a \$500 civil penalty, on top of other possible civil and criminal penalties, and may have to forfeit their office. In addition, any contract made in violation of [chapter 42.23 RCW](#) is void, and acting in good faith is not a defense.

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## Local Ethics Codes

A municipality may adopt an ethics policy that includes additional restrictions not covered by state law. Such policies cannot conflict with state law, but they can supplement it. Many municipalities throughout Washington have adopted their own ethics codes, and there are several good reasons for doing so:

- It allows the municipality to further explain what is covered by state law.
- It can cover employees as well as officers.
- It can address ethical issues not covered by [chapter 42.23 RCW](#).

For more information and examples, see our [Local Codes of Ethics](#) page.

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## Other Potential Conflicts of Interest and Ethical Issues

In addition to [chapter 42.23 RCW](#), state law and some local laws address other potential conflicts of interest and ethical situations, including:

- Conflicts of interest outlined in a [local ethics code](#);
  - Local [nepotism](#) rules, which regulate the hiring of and contracting with relatives;
  - The [doctrine of incompatible offices](#), which prohibits an individual from simultaneously holding two public offices that are “incompatible” with one another;
  - The [appearance of fairness doctrine](#), which requires government decision-makers to conduct quasi-judicial hearings and proceedings in a way that is fair and unbiased in both appearance and fact;
  - The common law conflict of interest doctrine as recognized in [Smith v. Centralia](#) (1909), a case in which the Washington Supreme Court found that the common law principle preventing municipal officers from adjudicating their own cause is a “a maxim as old as the law itself”; and
  - [Article 11](#), section 8 and [article 30](#), section 1 of the [Washington State Constitution](#), which prohibit mid-term or post-election pay increases for municipal officers who fix their own compensation.
- 

## Recommended Resources

- [Knowing the Territory: Basic Legal Guidelines for Washington City, County, and Special Purpose District Officials](#) – Downloadable MRSC publication for local officials offering information on roles and responsibilities, conflicts of interest, Open Public Meetings Act, Public Records Act, Appearance of Fairness Doctrine, use of public funds, and more.

Last Modified: February 23, 2024

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## **Agenda Staff Report**

Agenda Item No.: Business Item 7C

Meeting Date: June 11, 2024

Subject: Adoption of a Resolution Amending  
Resolution No. 030-16, Pertaining to the  
Rules Governing Public Comment at  
Council Meetings

Prepared By: Charlotte Archer  
City Attorney

**Summary:** The conduct of the City Council’s meetings is governed by the Washington Open Public Meetings Act, Chapter 42.30 RCW, as well as the City Council’s adopted rules of procedure, codified at Chapter 2.04 of the Port Orchard Municipal Code.

Pursuant to RCW 42.30.240, public comment is only required as follows:

Except in an emergency situation, the governing body of a public agency shall provide an opportunity at or before every regular meeting at which final action is taken for public comment. The public comment required under this section may be taken orally at a public meeting, or by providing an opportunity for written testimony to be submitted before or at the meeting.

This statute was adopted in 2022, and prior to its adoption there was no law that required cities in Washington to offer public comment (except for limited circumstances where a public hearing was required in association with a particular action, such as a comprehensive plan adoption).

However, the Port Orchard City Council values public comment and has consistently exceeded the requirements of state law by allowing public comment to ensure that the public is offered an opportunity to engage with important topics and proposed legislation. Accordingly, in 2016, the City Council adopted Resolution No. 030-16, to establish limited parameters for public comment to balance the goal of ensuring members of the public are afforded an opportunity to address the City Council with the need to conduct City Council business meetings in an orderly and efficient manner.

During its recent retreat, the City Council requested the elimination of the second public comment period and the consolidation of all public comment into the first public comment period, so that those seeking to speak could do so early in the meeting and prior to the conduct of business. By this Resolution, the City Council would amend its rules for public comment to make this change.



**Recommendation:** Staff takes no position on this Resolution.

**Relationship to Comprehensive Plan:** N/A

**Motion for consideration:** “I move to adopt a Resolution amending Resolution No. 030-16 pertaining to the rules governing public comments during regular City Council meetings.”

**Fiscal Impact:** None anticipated.

**Alternatives:** Do not approve and provide alternative guidance.

**Attachments:** Resolution

**RESOLUTION NO. \*\*-24**

**A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON, AMENDING RESOLUTION NO. 030-16, PERTAINING TO THE RULES GOVERNING PUBLIC COMMENTS DURING A REGULAR CITY COUNCIL MEETING.**

**WHEREAS**, the City Council for the City of Port Orchard invites members of the public to offer public comment during its regular City Council meetings; and

**WHEREAS**, the inclusion of public comment during the City Council’s regular meeting agenda is set forth at Port Orchard Municipal Code Section 2.04.060; and

**WHEREAS**, additionally, by Resolution No. 030-16, the City Council adopted rules to govern the public comment period to balance the goal of ensuring members of the public are afforded an opportunity to address the City Council with the need to conduct City Council business meetings in an orderly and efficient manner; and

**WHEREAS**, under these rules, public comment on agenda items occurs at the beginning of the meeting, while comment offered on any topic not on the agenda occurs at the end of the meeting; and

**WHEREAS**, the Council desires to amend these rules to consolidate all public comment, regardless of the topic, to one comment period at the beginning of the meeting, to ensure members of the public are afforded the opportunity to speak early in the meeting; now, therefore,

**THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:**

**THAT:** It is the intent of the Port Orchard City Council that the recitals set forth above are hereby adopted and incorporated as findings in support of this Resolution.

**THAT:** Resolution No. 030-16, at Exhibit A, is hereby amended to read as set forth on Exhibit A attached hereto and incorporated herein with this reference.

**THAT:** The Resolution shall take full force and effect upon passage and signatures hereon.

PASSED by the City Council of the City of Port Orchard, SIGNED by the Mayor and attested by the Clerk in authentication of such passage this 11<sup>th</sup> day of June 2024.

\_\_\_\_\_  
Robert Putaansuu, Mayor

ATTEST:

\_\_\_\_\_  
Brandy Wallace, MMC, City Clerk

## Exhibit "A"

### Rules for Public Participation in Regular Council Meetings

- (1) One (1) public comment period will be provided during regular Council Meetings, to occur immediately following the Council's approval of the agenda.
- (2) Each speaker may address the Council once for up to three (3) minutes. Once the three minutes have expired, the speaker will be required to leave the podium and/or cease their comment(s).
- (3) The public comment period will be limited to a maximum of 30 minutes.
- (4) If there appears to be a need for additional time for the Council to receive input on a particular issue, the Council may move an item to:
  - A Council Committee; or
  - A Study Session; or
  - If time allows, the period may be extended at the current meeting; or
  - A future Council Meeting.
- (5) Speakers present in person will be heard prior to any speakers appearing via the online platform.
- (6) Written public comments may be submitted to the City Clerk's office at where they will be sent to all Councilmembers and the Mayor. Written public comments received by 4pm on the day of a regular Council Meeting will be provided to the Councilmembers in advance of that days' meeting.
- (7) Once a motion is pending, debate is limited to Councilmembers and no further public comment will be taken, unless a Council Member requests clarification of previous comment(s).

**RESOLUTION NO. 030-16**

**A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON, REPEALING  
RESOLUTION NO. 032-06 AND RE-ESTABLISHING THE RULES GOVERNING CITIZEN  
COMMENTS DURING A REGULAR CITY COUNCIL MEETING**

**WHEREAS**, the City Council desires to repeal Resolution No. 032-06 in its entirety to reestablish rules governing Citizen Comments during a regular City Council meeting; and

**WHEREAS**, the primary purpose of City Council meetings is to allow the City Council an opportunity to conduct City business; and

**WHEREAS**, the City Council and the Mayor endeavor to conduct City Council meetings in a manner as to maximize efficient use of time; and

**WHEREAS**, the City has substantial governmental interest in conduct City business in an orderly and efficient manner; and

**WHEREAS**, with the increase in public participation in Council meetings, it has become necessary to amend the City's public participation rules; and

**WHEREAS**, the purpose of the Citizen Comment sections on the agenda is to provide members of the public with an opportunity to address the City Council; and

**WHEREAS**, the first Citizen Comment period, at the beginning of the meeting, shall be limited to topics related only to items on the published agenda; and

**WHEREAS**, the second Citizen Comment period shall be on any topic; and

**WHEREAS**, all regular City Council meetings will be recorded from gavel to gavel and made available to the public on the City's website; and NOW, THEREFORE,

**THE COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON HEREBY  
RESOLVES AS FOLLOWS:**

**THAT:** Resolution No. 032-06 is here by repealed in its entirety to reestablish rules governing Citizen Comments during a regular City Council meeting; and

**THAT:** The "Rules for Public Participation In Council Meetings When the Mayor calls for Audience Comments," as described and attached hereto as Exhibit "A" are hereby adopted, and

**THAT:** The Mayor is authorized to take such steps as are necessary to effectuate the purposes of this resolution.

PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor and attested by the Clerk in authentication of such passage this 22nd day of March 2016.



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Robert Putaansuu, Mayor

ATTEST:



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Brandy Rinearson, CMC, City Clerk





Rules for Public Participation  
In Regular Council  
Meetings  
When the Mayor calls for Audience  
Comments



- (1) The citizen comment portions of the meeting will be limited to a maximum of 30 minutes.
- (2) Each speaker may address the Council once for up to three minutes, during each citizen comment portion of the meeting. Once the three minutes have expired, the speaker will be required to leave the podium.

The first citizen comment portion of the meeting shall relate to topics on the published agenda and the second citizen comment portion of the meeting shall be on any topic.

- (3) If there appears to be a need for additional time to receive input on a particular issue, the item may be moved by Council to:

A Council Committee;  
A Study session;  
If time allows, issues may be addressed at the current meeting; or  
Moved to the next available Council Meeting;

- (4) If more than three minutes are needed to address comments or concerns of the speaker, the speaker is encouraged to submit his or her comments in writing at any time to the City Clerk's office, where it will be sent to all Councilmembers and the Mayor to review.
- (5) Once a motion is pending, debate is limited to Council Members and no further public comment will be taken, unless a Council Member requests clarification of previous comment.



## **Agenda Staff Report**

Agenda Item No.: Business Item 7D

Meeting Date: June 11, 2024

Subject: Approval of an Agreement with Kitsap  
County Consolidated Housing Authority,  
dba Housing Kitsap for 1406 Funding

Prepared By: Noah Crocker  
Finance Director

**Summary:** Consistent with Substitute House Bill 1406 (Chapter 338, Laws of 2019) (“SHB 1406”), the City Council authorized the City to utilize a portion of the exiting sales tax for affordable or supportive housing efforts. In 2020 and 2022, the City evaluated proposals to utilize these funds and entered into agreements with selected partners. Since the expiration of those agreements, the City has identified a program through Kitsap County Consolidated Housing Authority, dba Housing Kitsap, to utilize these funds for the benefit of the Port Orchard community. Housing Kitsap would utilize the funds for its existing Home Rehabilitation Program, which provides grants for the rehabilitation of existing, affordable housing to low-income households in the City of Port Orchard. Staff from both agencies have negotiated the terms of an Agreement to govern the City’s contribution to Housing Kitsap and Housing Kitsap’s use of the funds. The City’s funding pledge under the agreement is capped at \$43,200 and is dependent on the City’s receipt of applicable sales tax revenue. At its meeting on May 28, 2024, the Housing Kitsap Board of Commissioners approved the Agreement by Resolution No. 2024-21.

**Recommendation:** Staff recommends the Council authorize the Mayor to execute an Agreement with Housing Kitsap for SHB 1406t fund for affordable housing.

**Relationship to Comprehensive Plan:** N/A

**Motion for consideration:** “I make a motion to authorize the Mayor to execute an Agreement with Housing Kitsap for the use of SHB 1406 funds for affordable housing in Port Orchard.”

**Fiscal Impact:** Revenue from the SHB 1406 funds will be used to fund this Agreement and associated program.

**Alternatives:** Do not approve and provide alternative guidance.

**Attachments:** Agreement  
Courtesy copy of Housing Kitsap’s authorizing resolution

## AFFORDABLE HOUSING SERVICES AGREEMENT

This Affordable Housing Services Agreement (“Agreement”) is entered into by and between Kitsap County Consolidated Housing Authority dba Housing Kitsap, a Washington Housing Authority, and the City of Port Orchard, a Washington State municipal corporation (hereinafter the “City” and collectively the “Parties”).

### I. RECITALS

- A. Housing Kitsap is a Municipal Corporation - Housing Authority formed under RCW 35.82.030 organized and existing under the laws of the State of Washington; and
- B. The City of Port Orchard is a Washington municipal corporation organized and existing under the Washington State Constitution and the laws of the State of Washington, and particularly those set forth at RCW Title 35; and
- C. In the 2019 legislative session, the Washington state legislature passed SHB 1406 (codified at RCW 82.14.540), which created a sales tax revenue sharing program that allows the City to distribute a portion of state sales and use tax revenue (hereinafter, the “Funds”) to make local investments in affordable housing over a 20-year term; and
- D. The City is committed to utilizing the taxable retail sales funding source to assist qualifying citizens of Port Orchard by investing in programs that commit to providing housing assistance for those below the 60% median income level; and
- E. Housing Kitsap operates a Housing Rehabilitation Program to provide loans and grants to low-income households to assist with the rehabilitation of existing affordable housing units (the “Program”); and
- F. In 2022, the City executed an Agreement with Housing Kitsap to partner with the City to use the Funds to provide loans and grants to qualifying low-income households in the City of Port Orchard for the rehabilitation of existing affordable housing; and
- G. Housing Kitsap desires to execute a new Agreement to administer Funds up to \$43,200 plus applicable taxes to qualifying low-income households in the City of Port Orchard;
- H. The City desires to engage Housing Kitsap to perform the public services described herein and undertake the use of the City’s Funds for the affordable housing purposes;

NOW, THEREFORE, in consideration of the foregoing, and in consideration of the premises, terms and conditions set forth below, it is hereby agreed as follows:

### II. AGREEMENT



1. Affordable Housing Services. The City desires to engage Housing Kitsap's Housing Rehabilitation Program ("Program") by utilizing Funds allocated to the City pursuant to SHB 1406 and administer grants for the rehabilitation of existing, affordable housing to low-income households in the City of Port Orchard. Consistent with this goal, the Parties agree to the following performance obligations:
  - A. City's Duties. The City shall provide Housing Kitsap with Funds in an amount up to \$43,200 plus applicable taxes for the term of this Agreement, contingent on the terms and conditions herein. The City shall have no additional payment obligations to Housing Kitsap beyond this allocation, and all funding is conditioned on Council appropriation.
    - i. Upon receipt of a complete invoice in a form acceptable to the City, the City shall issue payment within thirty (30) days of receipt.
  - B. Housing Kitsap's Duties. Housing Kitsap shall utilize the Funds for the Program, as set out on Exhibit A attached and hereby incorporated herein. In utilizing the Funds and administering the Program, Housing Kitsap shall comply with all applicable state and local laws. The Funds will only be used for the rehabilitation of affordable housing to benefit those City of Port Orchard residents with 0-60% of the Area Median Income (AMI). Additional parameters for the Program are described in Exhibit A.
    - i. Housing Kitsap shall submit detailed monthly invoices to the City, (a) evidencing and documenting that the requested payment was used for the Program described herein and authorized by the City Council; (b) documentation evidencing that the beneficiaries of the funding are Port Orchard residents with a 0-60% of the Area Median Income (AMI); (c) documentation of monthly program activity, direct program staff time and indirect salary expenses as defined in the Central Services Cost Allocation Plan and (d) any other documentation showing that the funding is used solely for the rehabilitation of units of affordable housing.
    - ii. Housing Kitsap shall keep cost records and accounts pertaining to this Agreement available for inspection by City representatives for three (3) years after final payment.
2. Duration. This Agreement will commence upon mutual execution of this Agreement and will expire on December 31, 2024, unless earlier terminated in accordance with the terms of this Agreement.
3. Termination. The City may terminate this Agreement with or without cause upon thirty (30) days' advance written notice to Housing Kitsap and all work shall cease upon termination. In the event of termination, Housing Kitsap may submit for payment from the Funds for all work performed prior to termination, and the City have no obligation to provide Funds to Housing

Kitsap for any remaining, post-termination work. Upon termination or expiration of the Agreement, all unused Funds shall be returned to the City.

4. Insurance.

- A. Housing Kitsap shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by Housing Kitsap, its agents, representatives, or employees.
- B. No Limitation. Housing Kitsap's maintenance of insurance as required by the agreement shall not be construed to limit the liability of Housing Kitsap to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.
- C. Minimum Scope of Insurance. Housing Kitsap shall obtain insurance of the types described below:
  - 1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01, or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
  - 2. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01, or a substitute form providing equivalent liability coverage and shall cover liability arising from premises, operations, independent contractors and personal injury and advertising injury. The City shall be named by endorsement as an additional insured under the Housing Kitsap's Commercial General Liability insurance policy with respect to the work performed for the City.
  - 3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
- D. Minimum Amounts of Insurance. Housing Kitsap shall maintain the following insurance limits:
  - 1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
  - 2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.

3. Employer's Liability each accident \$1,000,000, Employer's Liability Disease each employee \$1,000,000, and Employer's Liability Disease – Policy Limit \$1,000,000.
- E. Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability and Commercial General Liability insurance:
1. Housing Kitsap's insurance coverage shall be primary insurance as respect the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of Housing Kitsap's insurance and shall not contribute with it.
  2. The City will not waive its right to subrogation against Housing Kitsap. Housing Kitsap's insurance shall waive the right of subrogation against the City, or any self-insurance, or insurance pool coverage maintained by the City.
  3. Housing Kitsap's insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice has been given to the City. If the General Liability coverage is written on a "claims made" basis, then a minimum of a three (3) year extended reporting period shall be included with the claims made policy, and proof of this extended reporting period provided to the City.
- F. Acceptability of Insurers. Insurance as provided by Housing Authority Risk and Retention Pool.
- G. Verification of Coverage. Housing Kitsap shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of Housing Kitsap before commencement of the work.

## 5. Indemnification

- A. Housing Kitsap does hereby agree to save harmless and defend the City from all claims and liability due to the acts, errors or omissions of Housing Kitsap, its agents and/or employees, except for claims caused by the sole negligence of the City. Such indemnity will include, but not be limited to, all out-of-pocket expenses incurred by the City, including attorney's fees, in the event Housing Kitsap fails or refuses to accept the tender of any claims brought against the City, the basis for which are acts, errors or omissions of Housing Kitsap, its agents and/or employees.
- B. The foregoing indemnity is specifically and expressly intended to constitute a waiver of each Housing Kitsap's immunity under Washington's Industrial Insurance Act, RCW Title 51, as respects the City only, and only to the extent

necessary to provide the indemnified party with a full and complete indemnity of claims made by the indemnitor's employees. The parties acknowledge that these provisions were specifically negotiated and agreed upon by them.

6. Entire Agreement / Amendments. This Agreement, together with any attachments or addenda, represents the entire and integrated Agreement between the Parties hereto, and supersedes all prior negotiations, representations, or agreements, either written or oral. It is mutually agreed and understood that no amendment of any of the terms of this Agreement will be valid unless made by written instrument properly signed by both Parties.
7. Notices. Except as otherwise identified in this Agreement, any notices required to be given by the City to Housing Kitsap, or by Housing Kitsap to the City, will be in writing and delivered to the Parties at the following addresses:

Housing Kitsap  
Heather Blough, Executive Director  
2244 NW Bucklin Hill Road  
Silverdale, WA 98383

City of Port Orchard  
Robert Putaansuu, Mayor  
216 Prospect Street  
Port Orchard, WA 98366

8. Compliance with Laws. Housing Kitsap will comply with all federal, state and local laws, rules, regulations and ordinances applicable to the performance of this Agreement, including without limitation all those pertaining to the COVID-19 pandemic, wages and hours, confidentiality, disabilities and discrimination, including but not limited to the Americans with Disabilities Act and all regulations interpreting or enforcing such Act.
9. Maintenance and Audit of Records. Housing Kitsap will maintain books, records, documents and other materials relevant to its performance under this Agreement, which sufficiently and accurately reflect any and all direct and indirect costs and expenses incurred or paid in the course of performing this Agreement. These records will be subject to inspection, review and audit by the City, the Washington State Auditor's Office, and authorized federal agencies. Both Parties will retain all such books, records, documents and other materials as required by the Washington State Records Retention policy as established by the Secretary of State. In the event the City receives a public records request for records pertaining to this Agreement and/or the Program, Housing Kitsap agrees to assist the City, at Housing Kitsap's sole cost, to meet the City's obligations under the Public Records Act, Ch. 42.56 RCW, at KH's sole cost.
10. Reporting. Housing Kitsap will submit to the City a detailed accounting of the use of the Funds by Housing Kitsap with monthly invoices as described in Section 1.B. Housing Kitsap will assist the City by providing any information needed for the City to compile and submit the annual reports required to by the State of Washington under RCW 82.14.540 (11).
11. Waiver Limited. A waiver of any term or condition of this Agreement must be in writing and signed by the waiving Party. Any express or implied waiver of a term or condition of this

Agreement will apply only to the specific act, occurrence or omission and will not constitute a waiver as to any other term or condition or future act, occurrence or omission.

12. Default / Dispute Resolution. If either Housing Kitsap or the City fails to perform any act or obligation required to be performed by it hereunder, the other party will deliver written notice of such failure to the non-performing party. The non-performing party will have thirty (30) days after its receipt of such notice in which to correct its failure to perform the act or obligation at issue, after which time it will be in default (“Default”) under this Agreement; provided, however, that if the non-performance is of a type that could not reasonably be cured within said thirty (30) day period, then the non-performing party will not be in Default if it commences cure within said thirty (30) day period and thereafter diligently pursues cure to completion.

In the event a default continues and/or any dispute arises (for anything other than non-payment) between the Parties, either party may request in writing that the issue be resolved by mediation. If the Parties are unable to resolve the dispute within ninety (90) days, then either party will have the right to exercise any or all rights and remedies available to it in law or equity. In any suit or action instituted to enforce any right granted in this Agreement, the substantially prevailing party shall be entitled to recover its costs, disbursements, and reasonable attorneys’ fees from the other party.

13. Venue and Choice of Law. Any action at law, suit in equity, or other judicial proceedings for the enforcement of this Agreement or any provision thereof will be instituted only in the courts of the State of Washington, Kitsap County. It is mutually understood and agreed that this Agreement shall be governed exclusively by the laws of the State of Washington, both as to interpretation and performance.
14. Assignment and Subcontracting. Housing Kitsap may not assign, transfer, delegate, subcontract or encumber any rights, duties, or interests accruing from this Agreement without the express prior written consent of the City, which consent may be withheld at the sole discretion of the City.
15. Severability. If any term or provision of this Agreement should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality will not affect the validity or constitutionality of any other term or provision of this Agreement, and this Agreement will be construed in all respects as if such invalid or otherwise unenforceable term or provision was omitted.
16. Independent Contractor. Housing Kitsap is and will be at all times during the term of this Agreement an independent contractor. Nothing in this Agreement will create an employee/employer relationship between the Parties.
17. Independent Parties. The Parties to this Agreement, in the performance of it, will be acting in their individual capacities and not as agents, employees, partners, joint ventures, or associates

of one another. The employees or agents of one party will not be considered or construed to be the employees or agents of the other party for any purpose whatsoever.

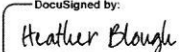
18. Counterparts. This Agreement may be executed by the Parties using duplicate counterparts.

19. Filing. In accordance with RCW 38.34.040, this Agreement will be filed with the Kitsap County Auditor or listed on the web sites of the Parties prior to its effective date.

20. Disclosure. The Parties understand that the City's Mayor is, by virtue of his position, a member of the KCCHA governing board. The Parties understand and agree that the Mayor will act on behalf of the City at all times during the term of this Agreement and will not act on behalf of KCCHA or its Board. The Mayor will have no fiduciary duties with respect to KCCHA's interests under this Agreement and the Mayor's sole fiduciary duty shall be to the City. The Parties agree that the Mayor's involvement in this Agreement is not a conflict of interest for either party.

FOR HOUSING KITSAP

Adopted this 6 day of June, 2024

DocuSigned by:  
  
Heather Blough  
Executive Director

FOR THE CITY OF PORT ORCHARD

Adopted this \_\_\_ day of \_\_\_\_\_, 2024

\_\_\_\_\_  
Robert Putaansuu, Mayor

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
Brandy Wallace, MMC, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Charlotte A. Archer, City Attorney



**EXHIBIT A  
SCOPE OF WORK AND FUNDS ALLOCATION**

Housing Kitsap shall utilize and administer up to \$43,200 in funds allocated to the City pursuant to SHB 1406 to administer grants through its Home Rehabilitation Program, for the rehabilitation of existing, affordable housing to low-income households in the City of Port Orchard. Use of the Home Rehabilitation Program shall be consistent with the Housing Kitsap Home Rehabilitation Program Plan and Operations Manual attached hereto.

Funds shall be used for grants to accomplish affordable housing rehabilitation, to benefit households with 0-60% of the Area Median Income (AMI). Documentation evidencing all expenditures by Housing Kitsap that meet these criteria shall be provided to the City with each submitted invoice.

**ATTACHMENT - Housing Kitsap Home Rehabilitation Program Plan and Operations Manual**



**KITSAP COUNTY CONSOLIDATED HOUSING AUTHORITY,  
dba HOUSING KITSAP**

**RESOLUTION 2024-21**

**RESOLUTION APPROVING AGREEMENT BETWEEN THE CITY OF PORT ORCHARD AND HOUSING  
KITSAP TO PROVIDE 1406 FUNDED OWNER-OCCUPIED HOME RENOVATION SERVICES**

**WHEREAS**, the staff of Kitsap County Consolidated Housing Authority, dba Housing Kitsap (HK), previously submitted an agreement between the City of Port Orchard and Housing Kitsap for renovation services, which was approved and signed on February 23, 2022. The agreement was successfully fulfilled as intended on time; and

**WHEREAS**, Housing Kitsap operates an Owner-Occupied Home Renovation and Rehabilitation Program though out Kitsap County; and


**WHEREAS**, the City of Port Orchard has approved to use a portion of the House Bill 1406 sales tax revenue to make local investments in affordable housing; and

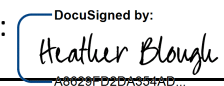
**WHEREAS**, Housing Kitsap and the City of Port Orchard wish to partner their efforts to expand the existing Owner-Occupied Home Renovation and Rehabilitation Program into the City of Port Orchard;

**NOW, AND THEREFORE, BE IT RESOLVED** that the Housing Kitsap Board of Commissioners hereby authorizes the Executive Director to execute and agreement between Housing Kitsap and the City of Port Orchard to use House Bill 1406 funding with the existing Owner-Occupied Home Renovation and Rehabilitation Program in the City of Port Orchard.

**ADOPTED** by the Housing Kitsap Board of Commissioners at an open public meeting this 28th day of May 2024.

**HOUSING KITSAP BOARD OF COMMISSIONERS**

By:   
Rob Putaansuu, Chair

ATTEST:   
Heather Blough, Executive Director

# Council Roles & Responsibilities

Charlotte A. Archer



# Guiding Principles

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Cities exercise power under the state constitution and within the limits established by statute and the state constitution. Power flows from the state.

Port Orchard Municipal Code § 1.06.010

The city of Port Orchard, Washington, hereby adopts the classification of noncharter code city retaining the mayor-council plan of government under which the city of Port Orchard is presently operated, as provided in Chapter 35A.12 RCW, endowed with all the applicable rights, powers, privileges, duties and obligations of a noncharter code city as the same now exists, or may be provided hereafter, including any and all supplements, amendments or other modifications of said title hereafter at any time enacted. (Ord. 037-17 § 1).

# Branches of Government

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Like the federal and state governments, a city government's powers are distributed among three separate branches: legislative, executive, and judicial.

- The city council is similar to the state Legislature or Congress.
- The mayor or manager, like the governor and the president, heads the executive branch.
- The municipal court (or the district court by contract) exercises judicial functions, although in a more limited way than the state or federal courts.

Under the “separation of powers doctrine,” each of the three branches exercises certain defined powers, free from unreasonable interference by the others; yet all three branches interact with each other as part of a “checks and balances” system. **The powers of these branches in city government are defined for the most part by state statute.**

# City Council Power and Authority

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- 1) Powers are exercised by a majority of the City Council in an open public meeting
- 2) Council Members have the right to speak in accord with City Council rules and cast a vote
  - Follow your own rules - Decorum
  - The Chair of the meeting (Mayor) is responsible to enforce those rules
  - If you don't like the rule—change it
- 3) Outside of the meeting context, individual City Council Members maintain the rights and responsibilities of every citizen, but those actions can have consequences for the City depending on how those are exercised



# Day-to-Day Activities



## Mayor

General supervision over administrative affairs of City

- a) Within the budget
- b) Enforce ordinances (land use, police, and code enforcement)
- c) Administer contracts
- d) Request approval for civil litigation to enforce contract provisions

## City Council

Create administrative structure

- a) Budget process
- b) Address health, safety and welfare needs by ordinance through exercise of police powers
- c) Approve contracts
- d) Budget for city administrative structure

# Building Trust

---

## **The “No Surprise Rule.”**

*Avoid surprising the staff, legislative body, or administration.*

**From the MRSC Handbook for Elected: Don’t spring surprises on your councilmembers or city staff, especially at public meetings. If a matter is worth discussing, it is worth putting on the agenda. Surprises may get you publicity, but they may embarrass others and tend to erode the “team” approach to governance. They also don’t create the space to make well-thought out or researched decisions.**

## **Equal and Timely Response**

*Try to ensure that the legislators get the same information from staff and the administration in the same time frame.*

# Roles of the Executive & City Council

## City Expenditures and Contracts



### Mayor

- Sign contracts, supervise contract performance & enforce contracts



### City Council

- Approve contracts
- Set budget for city expenditures

**Mayor has no authority to speak for and bind the City unless specifically authorized by ordinance adopted by the City Council.**

Authorization can be

- a) Specific – approve contract
- b) General – policy to approve contracts under specified amount and by adoption of a Small Works Roster





# Labor and Personnel



## Mayor

Hire, fire, direct compensation and working conditions subject to:

- 1) Civil Service System
- 2) Collective Bargaining Agreement and employment contracts
- 3) Within the budget
- 4) Council confirmation when required

Direct employees within:

- 1) Budget
- 2) Job descriptions
- 3) Ordinance structures
- 4) Applicable law

## City Council

*(at public meetings and by ordinance when required)*

- 1) Create Civil Service System
- 2) Direct negotiation framework and approve all employment contracts
- 3) Approve budget, provide for salaries and benefits through annual salary ordinance (best practices are to create job classifications and adopt salary ranges as part of the budget)
- 4) May establish departments, positions and job descriptions

## Procedures for Councilmembers Seeking Assistance or Information from the Administration

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Among the reasons Mayors put procedures in place for access to staff is to avoid the appearance of impropriety or undue pressure

Power imbalance makes it difficult for employees to say “no” to Councilmembers

# Who runs the City?

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## **MRSC Mayor/Council Handbook:**

“It is important to recognize that it is not the role of the councilmember to administer city affairs. The council sets policy, but it is either the mayor (in mayor/council cities) or the city manager (in council-manager cities) who actually implements the policies.

This means that it is not the role of the councilmember to supervise city employees on-the-job or become involved in the day-to-day administration of city affairs. This can be a source of conflict between the executive and legislative branches of city government.”

This can also lead to issue with employees including: impacts to employee morale, claims of unfair labor practices, employee retention issues, other issues within the organization, and legal risk.

# The City Council's Most Important Functions

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## Adopting Policy – This is a function that only the City Council can do:

- Use ideas from a variety of sources: administration, community groups, advisory committees, chambers of commerce, etc.
- Consider the merits of proposals and then approve, modify or reject them
- In doing so, Council Members analyze community needs, program alternatives, and available resources
- The **budget** and **comprehensive plan** are powerful policy tools that are adopted by ordinance
- In order to do this effectively, putting items onto the agenda and obtaining input from staff to support the Council's policy goals are key components to effectively bringing your policies into reality

# Responding to Constituent Complaints

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1. Residents often contact a Council Member when they have a problem
2. Keep in mind that you lack the authority to take action in administrative matters. Be careful not to appear to bind the City—make no promises!
3. Councilmember may:
  - a) Refer the matter to the Mayor, who can then assign it to an appropriate staff member
  - b) Raise at City Council meeting to gather information for future action or discussion (best practice is to put onto the agenda)
  - c) Discuss complaints or performance issue of public officials in executive session

# Conduct in Meetings

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- Follow existing statutes, ordinances and resolutions (including Rules of Procedure and Code of Ethics)
- Council Meetings = Business Meetings
  - Rules of Procedure – Updating and commit to enforcing them
  - Run the Council Meeting in a business-like manner to get the work done

Remember – It's the Council's meeting, not the Mayor's meeting.

Setting a Civil Tone: City Council meetings are your workplace, and you have the right and the obligation to control your workplace environment. But staff work here too, so be cognizant of keeping things professional and avoiding surprises for most effectiveness.

# “Point of Order”

Defer the issue to the Council as a whole for resolution.



The Chair is primarily responsible for enforcing the Rules of Procedure, but each Councilmember has the ability to raise a point of order

# Conflict of Interest



No gifts or compensation for a matter connected with service unless permitted by law

No disclosure of confidential information – including exec. sessions; information you know as a result of being a councilmember; attorney-client privileged, etc.

Penalty: Fine and Forfeiture of Office under **Chapter 42.23 RCW**





- Applies **broadly** to elected officials, appointed municipal officers, and potentially family members
- May **not** have a financial interest in the contract approved
- May **not** use position to secure special privileges for the officer or others (asking for special treatment)

# City Council: Right of Inquiry

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- Budget control: Adopt policy, fund a study, hire a consultant.
- Ethics Code/Personnel Policy: Make a report, trigger an investigation.
- Role of Legal Counsel: “Although there is no specific authority for a city council to hire outside legal counsel separate and apart from the city attorney, the courts have permitted a council to do so in certain circumstances.”
  - Normally, the city attorney advises all city officials, including councilmembers, and the city council should not hire separate outside council to receive advice on city affairs.
  - In rare cases, the city attorney may have a conflict and not be in a position to advise both the city council and the mayor (*Koler v. Black Diamond* (2021)). Recognize also that while the agency as a whole is always the “client,” there are situations where it is impractical for the agency’s attorney to advise all the officials involved in a case or hearing.

## 2.08.080 City Attorney.

The city attorney shall:

- (a) Advise mayor, city council, and department heads in all legal matters pertaining to the business of the city. Requests for legal opinions shall be directed to the city attorney through a tracking system maintained by the city clerk;
- (b) Approve all ordinances as to form and content;
- (c) Prosecute and/or defend, in courts of original jurisdiction, and on appeal, all civil actions brought by or against the city, or against officials, officers, and employees in their official capacity, including condemnation proceeding, provided where insurance counsel also defends the city, the main burden of such actions may be left to such counsel;
- (d) Prosecute in Port Orchard municipal court violations of city ordinances, provided the city council may by contract delegate this responsibility to another individual, law firm or governmental entity;
- (e) Attend all regular and special council meetings;
- (f) Attend other city commission and/or board meetings as requested by the mayor or responsible department head;
- (g) Draft all ordinances, leases and conveyances, and such other instruments as may be required by the business of the city, when requested to do so by the city council or the mayor;
- (h) Provide legal advice or assistance on issues related to labor law and provide labor negotiations services when requested by the mayor and city council;
- (i) Perform such other duties as the city council may direct by ordinance, resolution or contract;
- (j) Review and advise the city on all documents and advice provided by the city's bond counsel.

The City Attorney works for the City organization as a whole, generally under the direction of the Mayor. The Attorney gives advice to the Council and all city officials. The City Attorney should be the trusted advisor to the Council, the Mayor and the staff.

City Attorney is meant to be a resource to help the City minimize legal risk, implement and comply with the law, and avoid ethical issue that can create both personal legal risk but also risk for the organization.

# Concerns by Individual Councilmembers


The Association of Washington Cities (AWC) and the Municipal Resources and Services Center (MRSC) provide resources for individual councilmembers who wish to pursue items outside of the Council's agenda as a whole




**BUT** keep your city attorney and administration in the loop.

Honor the “No Surprise Rule.”

There are personal risks to public officials who violate procedures, codes, and laws:



If a Councilmember knowingly disregards rules of engagement or acts with malice, that individual may be found personally liable. Litigation costs and any potential damages awarded in the litigation would be the councilmember's responsibility and would not be reimbursable.



That's why understanding your role, understanding legal limitations, and understanding ethics are so important.

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Questions?

# Use the elected officials' road map to navigate your first year in office

## Get oriented

It is imperative that you understand your city's powers and services. You should know your city's:

- Form of government and classification
- Ordinances
- Services provided
- Boundaries, buildings, and facilities

## Know your roles and responsibilities

Understanding your role is critical to ensure proper planning, oversight, and delivery. You should know:

- The difference between policymaking vs. administration and who is responsible for what
- How your city's court is operated and the powers of the third branch of government

## Work as a team

To be effective, elected officials must work together to enact local policies and laws and establish a shared vision for the future. You should know:

- Types of council meetings
- How to work with advisory committees
- Parliamentary procedure

## Engage the public

You are now a servant to everyone in your community, not just those who share your views or those who voted for you. You should know:

- How your city traditionally engages the community
- Which civic groups to meet with in order to listen, answer questions, and share your insight
- How to talk with the media
- Volunteer opportunities in your city

## Implement policy

One of the most challenging tasks for city elected officials is policy development and adoption. You should know:

- Your city's budgets and the budget-adoption timeline
- How to set utility rates in order to manage capital assets and plan for growth
- Whether or not your city is required to plan under the Growth Management Act, and if so, what's contained in the comprehensive plan
- How state and federal environmental laws and regulations may impact your city

## Advocate for your city

Part of the elected leader's role is to advocate for the city's needs with local, regional, state, and federal decision-makers. You should know:

- Who your city's legislators and congressional representatives are, and meet with them
- What your legislators and congressional representatives are doing to help or hurt your city
- What stories to share with media that illustrate your city's needs
- Whether or not your city has a legislative agenda

## Understand the legal landscape

You may think of yourself as a law-abiding, ethical person, but there are many rules that will keep you on the right side of the law once you are elected. You should know:

- Ethics laws
- Open Public Meetings Act
- Public Records Act
- Appearance of Fairness Doctrine

## Work toward tomorrow

Despite the many things elected leaders do daily, it's important to stay focused on the future. This requires you to use your leadership status to move the city agenda forward, build trust, and create a civic culture of mutual respect. You should know:

- Your city's strategic plan and update process
- Plans for economic development and vitality
- How performance management can help your city chart progress and track results



# Mayors, councils, managers: everyone has a role in city hall

*In a strong mayor-council city, the mayor is responsible for administration and the council takes on policy development. In a council-manager form, the council is the policy-maker and the city manager administers policy.*

*For the city to run smoothly, it's critical that mayors, councils and managers understand and respect how their roles interact.*

## Find your place in city hall.

### Policy making & implementation

#### Administrative

- Keep council informed on city affairs.
- Propose policy.
- Implement policy adopted by council.
- Report back to council regarding policy implementation and possible improvements.

#### Policy

- Listen to city residents - keep track of their concerns and wishes.
- Discuss, develop, and adopt city policies governing many aspects of city operations.

### Council meetings

#### Administrative

- Prepare agenda, preside over meetings, report to council on matters involving city administration, propose policy initiatives or changes.
- Vote on measures to the extent allowed by the statutes. Veto ordinances, as permitted by statutes.
- As presider, facilitate an orderly meeting process.

#### Policy

- Adopt council rules of procedure.
- Participate in preparation of council meeting agenda as provided in council rules.
- Discuss all policy matters and make decisions following the adopted rules.

### City budget

#### Administrative

- Work with staff to develop preliminary budget.
- Lead council in process of establishing goals and priorities for the city.
- Implement budget adopted by council, provide regular financial reports, and present alternatives when council has to deal with budget problems.

#### Policy

- Establish goals and priorities which provide framework for budget - discuss and adopt final budget - amend budget as needed.
- Set city tax rates, to the extent permitted by statutes.
- Set utility rates and other fees as required.

### Personnel matters

#### Administrative

- Hire, fire, supervise and discipline all city employees (in some cities council confirmation of certain appointments can be required). Civil service rules and labor contracts must be followed, if applicable.
- Negotiate labor contracts (sometimes mayor is not member of negotiating team).

#### Policy

- Adopt personnel policies, establish positions, set wages and benefits - council should not meddle in mayor's supervision of employees or interfere with work of employees.
- Establish bargaining parameters and approve final labor contract.

### Land use and planning

#### Administrative

- Supervise planning staff, who make recommendations to the planning commission and council on a broad range of planning issues.
- Supervise staff who enforce building codes and other development regulations.

#### Policy

- Adopt and amend zoning, development regulations, and comprehensive plan after receiving input from staff, residents, planning commission, and others.
- Act in quasi-judicial capacity to decide land use issues.
- Amend planning documents as necessary.

### Relationships with other entities

#### Administrative

- Represent city as official spokesman, in accordance with views or goals set by council.
- Act as official head of city for ceremonial events (ribbon cuttings, sister-city contacts, etc.).

#### Policy

- Decide whether city will participate in optional government organizations, provide guidance to mayor or other city representatives.
- May serve as city representative on certain intergovernmental bodies where mayor is not designated member.

### City expenditures, contracts

#### Administrative

- Sign contracts, supervise contract performance, enforce contracts.

#### Policy

- Approve contracts and all city expenditures.



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# Mayor & Councilmember Handbook



# Mayor & Councilmember Handbook



MRSC Report No. 44  
Revised October 2021

### **Mayor & Councilmember Handbook**

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### **AWC's mission is to serve our members through advocacy, education, and services.**

Association of Washington Cities  
1076 Franklin St. SE, Olympia, WA 98501  
360.753.4137  
1.800.562.8981  
wacities.org

### **MRSC's mission is to support effective local government in Washington through trusted consultation, research, training, and collaboration.**

Municipal Research & Services Center of Washington  
2601 Fourth Avenue, Suite 800  
Seattle, WA 98121-1280  
206.625.1300  
1.800.933.6772  
mrsc.org

Last updated October 2021

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# Introduction

While this handbook is primarily intended to serve as a reference guide for mayors and councilmembers in Washington cities and towns operating under the mayor-council form of government, mayors and councilmembers in cities operating under the council-manager form of government will also find this handbook full of relevant and useful information.

A mayor in a mayor-council form of government wears many hats. As the chief executive officer of the city, you will deal with human resources, contracts, budgeting, labor relations, and a host of other issues. When chairing council meetings and public hearings, or when dealing with the press, you will have to choose your words carefully, deciding when is the appropriate time to be tactful or more direct.

It's no wonder that mayors and councilmembers often feel overworked and underpaid! Those who come to the job without having substantial experience in city government have a lot to learn. We hope this publication serves as both a basic primer on the role of a mayor and councilmember and as a resource with answers to some frequent problems.

Use this publication to learn how to get information, assistance, and advice. When your questions are not answered by the text, it will hopefully guide you to either the relevant statutes and publications, or to those people who can best answer your questions.

Being an effective leader is not something that just magically happens when you are elected to office. Leadership skills must be learned. Mayors and councilmembers need to listen to the residents of the city, develop goals, and then work effectively with each other to achieve your objectives. There are a lot of people counting on you. They want you to succeed and so do we. Good luck!

*Note: Unless the context or the references specifically indicate otherwise, the use of the term "city" or "cities" in this publication is meant to include "town" or "towns."*

---

**Remember – when you have a particular problem, chances are somebody else, whether it be another councilmember, a mayor of a different city, or a member of the city leadership team, has already dealt with the same**



# Know your form of government

It is important to know your city's classification. Also important are the different forms (sometimes called "plans") of government in Washington: mayor-council, council-manager, and commission. This section explains some of the basics. The city clerk can tell you your city's classification. MRSC's webpage Washington City and Town Profiles also lists each city classification and form.

Almost all cities have an elected official with the title of "mayor," but the authority of the mayor depends upon the form of the government. Mayors in mayor-council cities are sometimes referred to as "strong mayors" because they have considerably more authority than mayors in council-manager cities. The distinction is explained further below under Forms of City Government.

---

## City classification

City and town governments in Washington are classified according to their population at the time of organization (usually incorporation) or reorganization. There are four basic classifications for municipalities in the State of Washington: first class cities, second class cities, towns, and code cities.

Although some of the state laws (statutes) are the same for all classes of cities, many of the laws are different. State laws are located in different chapters of the Revised Code of Washington. The Revised Code of Washington (RCW) is the compilation of the laws passed by the state Legislature. "Statutes" are the laws contained in the RCW.

In 1890, the Legislature established four classes of municipal corporations: first, second, and third class cities, and fourth class municipalities, known as towns.<sup>1</sup> However, in 1994 the Legislature eliminated the third class city classification and those cities automatically became second class cities. Reference to fourth class municipalities was also dropped – they are now referred to exclusively as towns. An additional classification, the optional municipal code city, was provided in 1967.<sup>2</sup>

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## 4 classes of cities

- First class cities
- Second class cities
- Towns
- Code cities

<sup>1</sup> First Class Cities: RCW 35.22; Second Class Cities: RCW 35.23; Third Class Cities: formerly RCW 35.24; Towns: RCW 35.27.

<sup>2</sup> Optional Municipal Code Cities: RCW 35A Optional Municipal Code



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## What difference does it make?

Depending on the city classification, there are some important differences with respect to the power and authority of the city government. Some of the differences are highlighted in this chapter. Note: See Appendix 1 for details regarding the specific powers and responsibilities of a mayor by city classification. The information in Appendix 1 will be an important reference to make decisions and then take action in the days ahead.

### Optional municipal code

The optional municipal code, Title 35A RCW, was devised in 1967 as an alternative to the existing statutory system of municipal government in Washington. The basic objective of the code was to increase the abilities of cities to cope with complex urban problems by providing broad statutory home rule authority in matters of local concern to all municipalities, regardless of population.

Cities operating under the optional municipal code are commonly referred to as code cities.

Under the optional municipal code, cities may take any action on matters of local concern so long as that action is neither prohibited by the Washington State Constitution nor in conflict with the general law of the state. The powers granted to code cities include all the powers granted to any other class of city in any existing or future legislative enactment, unless the Legislature specifically makes a statute inapplicable to code cities.

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### Charter cities

The Washington State Constitution provides that cities and towns with a population of 10,000 or more can frame a charter for their own government, subject to all the general laws of the state.<sup>3</sup> All of the 10 first class cities have charters at this time. Only one code city, Kelso, has adopted a charter. As with code cities, the powers granted to first class cities include all the powers granted to any other class of city.

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### Understand home rule powers

As one of the country's first home rule states, Washington city officials should understand the key legal concept of home rule.

Home rule is the right to locally govern on issues of local concern: "the authority of a local government to control its local affairs without interference from the state."<sup>4</sup> With home rule powers, a city may exercise the same powers as the state, except for any powers specifically denied in law. If either the state constitution or state statutes are silent about a city's power on a specific local issue, then under home rule, a city has the authority to pass laws to address the issue.

Importantly, the city does not need the state to grant it permission to act. The essence of home rule power is that the city already possesses the power. The city—not the state—decides when and how to wield it based on local circumstances.

<sup>3</sup> Constitution, Article XI, Section 10, as amended by Amendment 40.

<sup>4</sup> First, second class cities, and towns: laws governing the mayor-council plan are found in the respective RCW chapters for each class of city: RCW 35.22, RCW 35.23, and RCW 35.27. Optional Municipal Code cities: RCW 35A.12.

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## Forms of municipal government

There are three basic forms of municipal government in Washington: mayor-council, council-manager (also known as the city manager plan), and commission form. Sometimes the “form” of government is also referred to as the “plan of government” or “organization.” (See Appendix 1 for more details on the mayor’s powers in each form of government.)

### Mayor-council form of government

In the mayor-council form, policy and administration are separated. All legislative and policymaking powers are vested in the city council. The administrative authority, including a veto power (except in towns), is vested in the mayor.

### Council-manager form of government

All legislative and policymaking powers are vested in the city council. The council employs a professionally trained public administrator, the city manager, to carry out the policies it develops. The city manager is the head of the administrative branch of city government. By statute, the mayor is selected by the city council from among its members, although this may also be done by election.

The mayor’s responsibilities are primarily to preside at council meetings, and act as head of the city for ceremonial purposes and for purposes of military law. The mayor votes as a councilmember and does not have any veto power (RCW 35.18.190; RCW 35A.13.030-.033 Optional Municipal Code cities).

### Commission form of government

The commission form gives one elective body combined authority over the executive and legislative functions of municipal government. The commissioners, sitting as a body, are authorized to determine by ordinance the powers and duties of all officers and employees of each department. Each commissioner administers a separate department. The mayor has essentially the same powers as other members of the commission. The mayor has no veto power or any power to direct general city administration other than in their own department (RCW 35.17). Currently, there are no cities that operate under the commission form of government.

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## 3 forms of government

- Mayor-council
- Council-manager
- Commission

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**Additional resources:**

*Washington City & Town Officials Directory Mobile App*, MRSC

*Code City Handbook*, MRSC

*The Closest Governments to the People: A Complete Reference Guide to Local Government in Washington State* (2015), Steve Lundin, MRSC

*"Home Rule" vs. "Dillon's Rule" for Washington Cities*, Hugh Spitzer, 38 Seattle U.L. Rev. 809 (2015)

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**Change in classification or form of government**

The classification of a city or town can be changed. Cities and towns have the power to advance their classification when the population increases sufficiently and there is an election (RCW 35.06). A city or town with at least 10,000 inhabitants may become a first class city by adopting a charter. A town with at least 1,500 inhabitants may become a second class city (RCW 35.06.010).

Any incorporated city or town may become a noncharter code city by following the procedures in RCW 35A.02.

Any city may also change its form of government. In general, the procedure may be initiated either by a resolution adopted by the city council or by a petition process, both followed by an election.

**Washington cities classification & form of government summary\***

Class	Mayor-council	Council-manager	Commission	Total
First	6	4	0	10
Second	5	0	0	5
Town	68	0	0	68
Code	147	50	0	197
Unclassified	1	0	0	1
<b>Total</b>	<b>227</b>	<b>54</b>	<b>0</b>	<b>281</b>

\*As of October 2021

See MRSC's *Washington City & Town Officials Directory Mobile App* for specific data on each city, its population, classification, and form of government.

## Getting started

By their action at the polls, the people of your community have given you a vote of confidence and expressed faith in your ability to act in their best interest. And you don't want to let them down. But as the election campaign fades in your memory, the magnitude of your new job begins to sink in. Whether you come to this job after years of service to the city or were elected with no prior background in city government, there's still a lot to learn.

As a new mayor or councilmember, you have a lot to learn about providing leadership and governing. But don't take yourself or the business of government so seriously that you don't enjoy it. It should be a fun and rewarding experience.

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### Your first days on the job

The role of mayor varies greatly from city to city, depending on the form of government, history, and level of involvement. Some new mayors are overwhelmed by the amount of administrative work that their job entails. Many councilmembers also feel overwhelmed by everything they need to learn and are sometimes surprised to discover that there are limits on their role in making decisions and setting city policy.

What is clear, however, is that it is a very big job. Here are some tips for getting started.

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### Getting oriented

First on the agenda should be a thorough orientation session – a broad overview of the functions of the city to include finance, public works, public safety and other departments. The mayor or city manager will want to arrange time to sit down with the city clerk and key department heads. Take this opportunity to learn all you can about your city, its history, its operation, and its financing.

Your orientation should also include a tour of the physical facilities of the city. A firsthand inspection is often the best way to acquaint yourself with the city's operations.

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**“When the burdens of the presidency seem unusually heavy, I always remind myself it could be worse. I could be a mayor.”**

– Lyndon B. Johnson

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### Keeping some perspective

- **Pace yourself.** Recognize that life – and the city – is dependent on a lot of things over which we have little control. Set some priorities, recognize the need to spend time with your family, and don't burn yourself out.
- **Develop a thick skin.** Remember that they don't dislike you personally, they just don't like your ideas.
- **The job of mayor** is a unique combination of stress and joy.
- **Nurture your personal life.** Cutting back on family hours won't make you a better mayor.
- **Be yourself.** Don't try to be something you are not.

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## Review key documents

The following is a list of key city documents you will want to review. Ask your clerk or other staff if they exist and to help you locate them. Also, ask them to suggest other useful documents.

- Current operating and capital budgets
- Information on key programs and services
- Comprehensive annual financial report
- Organizational chart, staff roster and phone list
- The organization's primary planning documents
- Map showing city boundaries, buildings and facilities
- Mission statement and goals
- Council rules/meeting procedures
- Meeting minutes for last twelve months
- Work program and significant staff reports from last twelve months
- Human resource policies and other administrative policies
- Facts about your city: population, form of government, incorporation date, number of employees, total budget, total debt, etc.
- List of governmental agencies providing services or impacting your organization
- Calendar of important events

Don't be afraid to ask questions. You are not expected to know all the answers immediately. The mayor will want to find out about council salaries and benefits, employee vacation and sick leave policies, purchasing procedures within departments, proposed development projects – anything you need to know for a better understanding of city operations and issues currently facing your community.

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## Legal restrictions

Keep in mind that your city's adopted ordinances, typically codified as your municipal code, must be followed until the council takes action to amend them. And that's just the beginning – the number of federal and state laws and regulations that also govern your actions can be mind-boggling! If you are unsure of your responsibilities or authority in certain areas, be sure to seek clarification from your city attorney.

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## Mayor's role in working with staff

Whether you can spend a lot of time at city hall, or have a full-time job in addition to your mayoral responsibilities, you'll soon come to depend heavily on your key administrative staff.

In almost all cities, the city clerk performs a multitude of tasks. This is particularly true in the smaller jurisdictions. A city administrator often oversees administration in larger cities.

## **Value and respect your staff**

If your city is fortunate enough to have experienced staff, recognize these individuals as a valuable resource – don't take them for granted or casually replace them.

A good clerk and administrator can be your lifeline, helping you to fulfill your legal responsibilities and ensure that the city functions smoothly. Staff who have been with the city for some time have some valuable historical perspectives, and can help "fill in the gaps" for a new mayor.

Make sure your staff are well trained and keep up in their field – encourage your clerk (and/or administrator) to attend training sessions and professional meetings of their peers. These sessions are well worth the investment – staff can learn from their peers around the state, avoid reinventing the wheel, and share challenges and solutions.

Resist the urge to drastically change the organization before you know how it really works. Many of your city's policies have evolved over the years through trial and error. While some methods may appear to need an immediate overhaul, it pays to watch the operation for a while before trying new methods. Don't seek change simply to do things differently!

Give yourself at least six months to learn the fundamentals of the task you have undertaken. Many potentially fine public servants have come to an unhappy ending because of errors in judgment they made by being overly aggressive during those first six months. Even if you come to the mayor's job with many years of service on the council, you will find there is still a lot to learn.

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## **Public and private sector differences**

A word of caution: You may have run for office with the pledge to "run the city more like a business." While there are certainly similarities, there are some important differences between the public and private sectors that will become apparent as you get used to your new role.

### **Here are just a few of those differences:**

- Much of your work will be done in the public eye. Consequently, things may move more slowly and take more time. All deliberations of council are done in public meetings and most public records are available to anyone.
- City revenues are limited by laws. You can only raise taxes so high, so you can't always pass on the costs directly to the consumer.
- There are more unions in the public sector. Salaries are often compared to employees in other cities. It is common for employees to expect an annual cost of living increase.
- Public employees have different constitutional rights and more legal protections. With additional laws governing your actions as an employer, you can expect more grievances, claims and litigation.
- Some things that you may just consider "good business sense" could run afoul of our state constitution's prohibition against "gifts of public funds." (See Article VIII, § 7 of the state constitution.)
- Public works projects and contracting often must go through a public bidding process. This takes more time and sometimes costs more.

### **Building a diverse, equitable, and inclusive city**

As one of the governments closest to the people, cities and their leaders should make efforts to foster an inclusive community and city hall. One important goal of democracy is to have a government that reflects the community it serves. This enables the community's wisdom to make government more effective and responsive to people's needs, with services more closely matched to the people who make up the community.

Mayors and councilmembers can be agents of change at the local level—listen to your residents, work to translate community concerns into actionable policy ideas, and then collaborate to find potential solutions. Many city leaders have listened to their communities and agree that more needs to be done to advance racial equity. Right now is always a good time to start turning talk into action.

Internal and external solutions to inequities can be as unique and diverse as our community members who have been historically excluded from full societal benefits and participation. Take stock of the policies and practices in place at your city and consider how each might impact every resident of your city. Start community conversations and intentionally include and collaborate with people from all backgrounds.

Every community has underrepresented populations who can be unintentionally left out of policies and practices. Take time to research your city's historical disparities and then use that information to generate ideas for future improvements—no matter your city's size or location.

# Practical advice

## Helpful pointers from other elected officials.

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### Initial words of wisdom ...

- **Listen.** Listen to everyone. Listen until your ears fall off. Soak it up. After six months in office, you will round out the picture of the complexities of city government and your role.
  - **Take notes for the first six months on relevant city business items.**
  - **Don't be afraid to say, "I don't know."**
  - **Don't make promises you can't deliver!** Most major decisions and actions require approval of the council.
  - **Gear your mind to process a tremendous amount of seemingly conflicting information.**
  - **Don't enter office with an unmovable set agenda.** Learn as much as possible before taking on a major program or effort. Don't be strangled by campaign promises that were made without sufficient information.
  - **If you come on board as a big critic of the "way things have been done,"** you may be surprised to find how hard the job really is. You'll soon gain better appreciation for those who came before you.
  - **The job can be very complex.** Try to stay focused on the big issues.
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### Mayors will want to...

- **Meet with each department head separately.** Learn all you can. Spend time with the previous mayor, if feasible.
- **Ask for help when you need it.** Don't be afraid to use outside resources (your attorney, AWC, MRSC, a neighboring city or county).
- **Don't be intimidated by larger cities.** Bigger cities have many of the same problems and may be willing to lend expertise or staff resources.
- **Network with others in the same boat.** Have monthly lunches with mayors from neighboring communities. They can provide support, new ideas, and give you an opportunity to vent.
- **Find an experienced mentor from another city.** Ask for advice when you need help. You'll get empathy and a clearer vision from someone who has been there.
- **Ask opinions, and listen.** Spend time with those individuals who have different opinions than yours (maybe even your opponent in the election). Listen, don't argue the points, then rethink your positions.
- **Don't reinvent the wheel.** Someone has probably done it elsewhere. Use information available from MRSC and AWC. Attend workshops and conferences, especially the AWC Annual Conference.



## The mayor's leadership role

**See if you can develop a vision of what your city should look like in the future, and work with others to that end.**

The mayor occupies the highest elective office in the municipal government and is expected to provide the leadership necessary to keep the city moving in the proper direction. Effective mayors see themselves not only as leaders staking out policy positions, but also as facilitators of effective teamwork.

As a mayor, you have a special set of long-term responsibilities not shared by many others. You are supposed to be a community leader and a political leader. Yet most of the trials and tribulations you will face during your term of office will deal with city housekeeping. These day-to-day activities are of immediate concern to most residents, and sometimes solving the little problems are the most fun.

But you need to find time to deal with the important policy issues and some of the long-term future concerns. Try to make your city a better place to live tomorrow, not just today.

If you can leave something of long-term consequence to improve your community, you will at least have the satisfaction of a job well done, and that is the principal reward of public service.

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### Setting goals

The role of the city council in cities of all sizes is becoming more demanding and complex. In order to get anything accomplished, elected officials must work together to define and agree upon mutual goals. This is one of the most challenging aspects of being a mayor and working with a city council.

Goal setting provides a framework for city action. By setting short-term and long-term goals, and then deciding which are most important, you and the council can define what your city government will try to achieve. Staff then have clear guidelines regarding what you and the council want to accomplish, and you have a way of evaluating your programs and services.

Establishing goals will keep you on track and minimize distraction from the brush fires.

Some cities plan goals through council retreats. Some use outside facilitators to assist with this process.

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## A simple goal-setting process

The basic idea is to start with the big picture and work to ensure that your day-to-day tasks relate back to that big picture. Periodically, you'll want to look back at your goals and evaluate what you've accomplished, and decide what changes you want to make, if any.

### Step 1. Identify issues and needs

Before you can set goals, you have to come to some agreement on what needs to be done. As a group, come up with an overall list of issues and needs, including councilmembers' ideas and residents' concerns. Narrow down that list to a workable number of problems and needs to be addressed.

### Step 2. Set goals

Once you've developed a focused list of needs or problems, describe what you hope to do to eliminate each problem or meet each need. The goals you express may be both community goals and goals for your particular governing body to accomplish.

### Step 3. Set objectives

Objectives are the specific short-term strategies to meet your goals. They are statements of accomplishments to reach within a specific time frame. By setting objectives, the council can focus on a series of realistic goals and can then determine the resources needed to accomplish them.

### Step 4. Set priorities

Setting priorities is the most important step in the goal-setting process. Comprehensive goal setting results in more objectives to accomplish than is possible in the time available, so you've got to set priorities. Decide what areas need attention now and which ones can be delayed. A simple rating and ranking exercise can help you determine which areas are of highest concern.

### Step 5. Start an action program

Once you've decided on goal priorities, work with staff to develop specific programs and timelines to meet your goals.

### Step 6. Evaluate the results

You'll want to establish a formal process for evaluating goal progress. Are you reaching them? Are they still appropriate? Do any need to be dropped or altered?

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#### Additional resource:

Center for Government  
Innovation, Washington State  
Auditor's Office

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## Public relations

- Remember that what you say, privately and publicly, will often be news. You live in a glass house. Avoid over-publicizing minor problems.
- Don't give quick answers when you are not sure of the real answer. It may be embarrassing later on.

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## Some of the mayor's leadership roles

### Ceremonial role

The mayor's participation in local ceremonial events is a never-ending responsibility. On a daily basis, the mayor is expected to cut ribbons at ceremonies to open new businesses, break ground for construction of new city facilities, and regularly appear at fairs, parades, and other community celebrations. The mayor also issues proclamations for a variety of purposes. As featured speaker before professional clubs, school assemblies, and neighborhood groups, the mayor can expect to be interviewed, photographed, and otherwise placed on extensive public display by the media.

### Intergovernmental relations

Your city does not operate in a vacuum. Cities must work within a complex intergovernmental system. Keep in contact and cooperate with your federal, state, county, and school officials. Get to know the officials of neighboring and similarly sized cities.

Mayors take the lead in representing their local government to those from outside the community who are interested in joint ventures – including other local governments, regional organizations, and federal and state government representatives. In this area, mayors promote a favorable image of their local government and pursue resources that will benefit the community.

### Public relations

Mayors inform the public, the media, and staff about issues affecting the community. This role is critical in building public support and facilitating effective decision-making by the council.

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## Working with residents

The most important trait a new official can cultivate is the simple ability to listen. You will quickly find that when frustrated city residents call on you to complain, they do not come to listen – they come to talk. So let them.

Make an effort to keep your constituents informed and encourage participation. Expect and respect complaints. Make sure your city has a way to effectively deal with them.

Sitting in your position of new responsibility does not allow you to forget the people who elected you to office. They expect you to keep them informed and to give them an opportunity to express themselves. If you do this, you will surely increase your chances for success as a public official.

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## Dealing with the media

The media is your best contact with the public – it informs the community about what is happening and why. A good working relationship is mutually beneficial to both you and the media. Through the media, you have the opportunity to comment publicly on local issues and inform residents of city activities. If you work hard to cultivate that relationship, you can ensure that the media have all the facts and provide accurate, fair coverage of city issues.

# Practical advice

Helpful pointers from other Washington mayors.

## Leadership ...

- **Lead by example.** Be honest, consistent, and flexible. Don't play games.
- **Use common sense.** If your heart, mind, and gut agree, then go for it.
- **Don't get stampeded into action by the strong demands of special interest groups.** Your job is to find the entire community's long-term public interest, and you may be hearing from a vocal minority.
- **Be clear on what you stand for.** List ten things you believe in.
- **A new mayor should have goals.** Make a list of things you want to accomplish. But don't act rashly and assume that only you know the best way to accomplish things. Every issue will benefit from additional discussion. Your perceptions may change.
- **Sometimes we underestimate the potential impact of a mayor's leadership.** Use the dignity of your office to help the community get past contentious issues.
- **There is a tremendous amount of discomfort in making very public decisions.** Sometimes the decisions feel like the end of the earth. It's easy to fear the political consequences. But it is important to look a little more long-term in perspective, weigh everything, and reach good decisions.
- **Know that you won't be able to satisfy everyone.** If you try, you won't be able to demonstrate leadership. Listen fairly, listen thoughtfully, and then do what's right.
- **Most of the easy decisions got made a long time ago.** Many decisions that need to be made can be very painful – but you can't solve those big problems without pain.
- **See if you can develop a vision of what your city should look like in the future, and work with others to that end.**

**"We're busy electing**

**barometers, when what we**

**really need are compasses."**

– Author unknown

# The mayor as chief executive

Most people understand that, except under a council-manager form of government, the mayor is the chief executive of the city. When there is a serious emergency, such as a flood, residents properly assume that it is the mayor who has the authority to take charge. Unfortunately, it is also assumed by some mayors that their power is almost supreme, even in the absence of an emergency.

Though the mayor has executive authority in a mayor-council city, that authority is defined by state law and must be exercised in a manner consistent with policy decisions made by the city council. There are statutory limitations both on what you can do and how you can do certain things. Appendix 1 lists the specific statutes that grant powers and responsibilities to the mayor. This chapter provides an overview of your chief executive responsibilities.

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### Administrative/policymaker distinction

Again, it is the council's role to adopt policies for the city and it is the mayor's role to administer or carry out those policies. The distinction sounds simple, but it can cause confusion and animosity.

Though a mayor does not set policy, as the elected chief executive it is certainly appropriate for the mayor to bring policy options and recommendations to the council. That is part of the leadership role of the mayor. That leadership role is particularly evident in the budget process, where the mayor submits a preliminary budget to the council as a proposed guideline for city priorities.

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### So, who actually runs the city?

In many of the smaller towns and cities in Washington, the city clerk is the person at city hall who does a lot of the day-to-day administration of the city. The clerk's duties are established by state statutes and city ordinances – this person is typically in charge of administration when the mayor is not at city hall.

In many cities, the mayor is employed full-time in another job and does not have the time to be at city hall taking care of administrative details. The mayor's salary in most municipalities clearly indicates that the job is not full-time.

As cities grow and the complexities of city administration become more difficult for a part-time mayor and a city clerk to handle, some cities choose to create a new position titled "administrative assistant," "city administrator," or "executive assistant" to help with city administration, under the direction of the mayor. The individual in such a position is generally appointed by the mayor and performs tasks within the statutory authority of the mayor. While the council can establish the qualifications and the duties of the position, it cannot take powers delegated by statute to the mayor and give those to the city administrator.

Only about a dozen Washington cities currently have full-time mayors, though a growing number of cities have individuals who work full-time as executive assistants to the mayor, as described above.

Some cities have chosen to change to a council-manager form of government when there is a consensus that a professional administrator could better handle the city administration. The decision of whether a city should have a professional city administrator or city manager is complex, involving politics, finances, and the views of the people.

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## **Responding to resident complaints**

Residents often contact the mayor when they have a problem, whether it involves a land use matter, a barking dog, or a pothole. Work with staff to resolve problems, keeping in mind that you are not the individual with all the answers.

For instance, as land use planning becomes more complex, don't be tempted to give a quick answer or promise to a landowner before checking with the city's planning department or reviewing the city's development regulations. Consider referring callers to the staff person with the expertise, then follow up to make sure the matter has been handled appropriately. If a matter is normally handled by the police department, direct the complainant to the police department.

City staff will appreciate your involvement if you make the proper referrals, and if you are careful to not make promises that are inconsistent with city procedures or policies.

If word gets out that complaining to the mayor gets a more prompt response to minor nuisance problems, you are bound to receive a lot of those calls. Did the people elect you to solve the barking-dog problem, or did they elect you to make sure that city staff properly handle these minor issues?

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## **Relationship with the city attorney**

In most cities, the mayor appoints the city attorney, whether that position is full-time or part-time. In some cities, the council takes an active role to arrange for the provision of legal services through a contract. Regardless of how the position is established, remember that although the mayor typically has more contact with the city attorney than the councilmembers or city staff, the city attorney's job is to advise all city officials. Sometimes councilmembers feel that the city attorney is the mayor's attorney, particularly if the city attorney generally supports the mayor's position in situations where the answer is unclear.

A mayor cannot prohibit the council from accessing the city attorney for advice. For financial reasons, the mayor may feel that questions to the city attorney should be channeled through the mayor, to avoid possible duplication and to make sure that the questions are presented clearly. Ultimately it is up to the council to establish procedures on how to provide city attorney services.

Some smaller cities try to minimize legal service fees by having the city attorney skip regular council meetings. That can be thrifty, but shortsighted, particularly when the council is dealing with controversial matters such as land development, or complex procedural issues such as local improvement districts.

### **Make your attorney's job easier**

Inform the city attorney ahead of time when you see a legal issue brewing. No attorney wants to be asked a complex question at a council meeting without prior warning. Don't be surprised if your attorney tells you they need to research the issue or discuss it with you (and council) in an executive session.

Instead of asking the city attorney without warning: "Can we do \_\_\_\_?", ask: "How can we do \_\_\_\_?" and give your attorney time to research the issue. City attorneys often get frustrated by frequently informing the mayor and council that they cannot do something. They would rather use their creativity to come up with alternate ways to legally accomplish an objective.

The attorneys at MRSC are another good source of legal expertise, but they are not a substitute for your city attorney, and your conversations with them are not subject to attorney-client privilege. Please keep in mind that their consultation is based on the facts you provide. Sometimes there are special factors involved, perhaps unique to your city. That is why MRSC will always advise you to review an issue with your city attorney.

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### **Public records disclosure**

You are legally obligated to disclose city documents to the public upon request. For example, when there is a request from the public to disclose a city document, the city must respond to the disclosure request in writing within five working days. The short turnaround time requires that city staff have clear guidelines for how to process these requests. Most cities have adopted public disclosure procedures. If your city has not yet adopted public disclosure policies, consider making that recommendation to the council.

Many city records are exempt from disclosure, and there are even statutes that prohibit disclosure of some records. (See Appendix 3, Public records disclosure, for more details on what is disclosable.) The Open Government Trainings Act requires elected officials to receive training on public records, the Open Public Meetings Act (OPMA), and records retention within 90 days of taking office and every four years thereafter.

In partnership with MRSC, AWC provides the courses for free online. The eLearnings are available to watch anytime, and they meet the Open Government Trainings Act requirement.

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### **Emergency management**

In mayor-council cities, the mayor is statutorily in charge when there is an emergency or disaster. RCW 38.52 contains the state statutes requiring that every city and town adopt an emergency management plan. Some cities choose to join with other cities or the county to create a joint emergency management agency. Together they select a director and grant them extensive authority to cope with an emergency.

The city clerk can provide you with a copy of your city's emergency management plan. Read it. Keep a copy readily available in both your office and at home. When a disaster happens, you may need to coordinate the emergency response. Depending on the emergency type and its duration, you may want to seek

consultation or approval of the council for certain actions, if feasible. (See Appendix 1, Overview of statutes, for further discussion of emergency management.)

And remember that while you have operational control during an emergency, the council always has final control of the city's budget. It is a good practice to keep them informed and get them to ratify purchasing and other budget-related decisions as soon as practicable during an emergency.

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## Personnel management

The statutes generally give the mayor or city manager, as chief executive, broad authority to hire and fire employees. (See Appendix 1, Overview of statutes.) Realize, however, that employee lawsuits can be one of your largest areas of potential liability. There are legal limitations on the actions you take in hiring, discipline, and discharge:

- **State and federal laws, court decisions** – Laws relating to anti-discrimination, overtime compensation, safety, sexual harassment, and many others.
- **The city's personnel policies** – Policies passed either as an ordinance or adopted as administrative policies.
- **Civil service** – Except for very small cities, most police and fire employees are protected by civil service. Some charter cities also provide civil service coverage for other city employees. Civil service governs hiring processes and provides hearings for disciplinary actions. Your actions may be subject to appeal to the local civil service commission (RCW 41.08 and 41.12).
- **Union contracts** – The terms of the labor contract prevail over other local regulations, including civil service rules and personnel rules. In many contracts, a grievance procedure provides for disciplinary appeals to an outside arbitrator.

### Before you jump...

Prior to taking any serious disciplinary action, consult with your attorney. Your liability insurance carrier may also provide some preventative legal assistance.

Another tip is to have good and consistent personnel policies. Current and clearly written policies help avoid lawsuits, promote consistency, and contribute to employee morale.

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## Labor relations

Unions have a significant presence in Washington cities. Most city employees have the right to organize under the state Collective Bargaining Act and have joined statewide unions or have formed local associations (RCW 41.56).

In particular, most police and fire departments are well-organized. Except for very small cities, police and fire are also subject to interest arbitration when an impasse in bargaining occurs. This can create a unique dynamic in police and fire negotiations.

### Labor relations advice

- Know the terms of your labor contracts.
- You can't change wages, hours or working conditions without bargaining these

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**In any disciplinary action –**

**hasten slowly.**



issues with the union. This means you can't unilaterally implement a change in benefits, for example, without risking an unfair labor practice.

- You may or may not choose to be on the bargaining team. Be aware of the disadvantages – the process is very time-consuming and may affect your day-to-day relationships with employees. Because city employees are often your constituents, you may have unions putting political pressure on you. Some cities hire professional consultants to bargain on behalf of management.

## Practical advice

### Helpful pointers from other Washington mayors.

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#### Working with staff ...

- **Hiring good people is what it's all about.** Get the best that you can. Take your time. It can be incredibly costly to undo a bad hiring decision.
- **Get to know staff.** Learn what they do.
- **Listen to your staff.** Give them as much responsibility as they can handle. Task your employees with the responsibility to create new ideas and better ways to get stuff done.
- **Keep perspective.** The people who helped get you elected may not always be the right people to help you run the city.
- **Say thank you!** Let folks know how much you appreciate them and give credit where credit is due.
- **Treat staff with respect.** They are a very valuable asset.
- **Be consistent.** Treat everyone the same.
- **Formalize your city's personnel rules and regulations.** Make sure the rules are clear.
- **Keep your employees informed.** Stay in touch with decision-makers on the front line and those who are in frequent contact with the people.
- **Budget money for and encourage your staff to attend professional meetings and seminars.** These learning opportunities and the personal contacts can be invaluable to your city.

# The job of a councilmember

The principal job of a city or town council is to set policy. A policy is a course of action for a community. Policymaking often takes the form of passing ordinances or resolutions. After policy decisions are made by the legislative body, others perform the administrative task of implementing the policies. The distinction between formulation and implementation may not always be clear, necessitating open communication between legislators and administrators.

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## Adopting policy

The council does not make policy in a vacuum. Councils rely on ideas from many sources, including the council staff, community groups, advisory committees, chambers of commerce, and others. It is the council's responsibility to consider the merits of each idea and then approve, modify, or reject them. In doing so, councilmembers analyze community needs, program alternatives, and available resources. The decision often takes the form of an ordinance or resolution, although it may take the form of a rule, regulation, motion, or order. The budget and comprehensive plan are powerful policy tools that are adopted by ordinance.

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## So, who actually runs the city?

It is important to recognize that it is not the role of the councilmember to administer city affairs. The council sets policy, but it is either the mayor (in mayor-council cities) or the city manager (in council-manager cities) who actually implements the policies. This means that it is not the role of the councilmember to supervise city employees on-the-job or become involved in the day-to-day administration of city affairs. This can be a source of conflict between the executive and legislative branches of city government.

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## Responding to constituent complaints

Residents often contact a councilmember when they have a problem, whether it involves a land use matter, a barking dog, or a pothole. Don't hesitate to send them to the appropriate city staff person for resolution of their problems. Keep in mind that you lack the authority to take action in administrative matters.

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## Relationship with the city attorney

In most cities, the mayor appoints the city attorney, whether that position is full-time or part-time. In some cities the council takes an active role to arrange for the provision of legal services through a contract. Regardless of how the position is established, remember that although the mayor or city manager typically has more contact with the city attorney than the councilmembers or city staff, the city attorney's job is to advise all city officials. Sometimes councilmembers feel that the city attorney is the mayor's or manager's attorney, particularly if the city attorney generally supports the mayor's or manager's position in situations where the answer is unclear.

## Question & answers

**Q. What is the role of the city council regarding employee discipline, and what input can the council have concerning performance appraisals of employees?**

**A.** Though the council may be concerned about employee discipline and how certain employees are performing their duties, the council should not be involved in any individual situations. While the council can establish personnel policies and voice their concerns to the mayor, it is solely the mayor's job to discipline and supervise city employees, including conducting performance evaluations.

**Q. Is the mayor or city manager required to inform councilmembers prior to terminating or disciplining a city employee?**

**A.** No. However, when a particular termination or discipline is likely to be controversial, the mayor may want to notify the council and explain the decision in an executive session. Disciplinary and termination decisions should be reviewed with the city attorney first. The mayor and councilmembers should be careful to not discuss specific cases outside of an executive session.

Neither the mayor nor the city manager can prohibit the council from accessing the city attorney for advice. For financial reasons, the mayor or manager may feel that questions to the city attorney should be channeled through the executive's office, to avoid possible duplication and to make sure that the questions are presented clearly. Ultimately, it is up to the council to establish procedures on how to provide city attorney services.

Some smaller cities try to minimize legal service fees by having the city attorney skip regular council meetings. That can be thrifty, but shortsighted, particularly when the council is dealing with controversial matters such as land development, or complex procedural issues such as LIDs.

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## Personnel management

The statutes generally give the mayor or city manager, as chief executive, the broad authority to hire and fire employees.

The city council, however, determines the number of employees that can be hired and those employees' duties. The council establishes salaries and other forms of compensation paid to city workers. The council may also establish job qualifications.

One piece of advice is to have good, consistent personnel policies. Up-to-date, clearly written policies help avoid lawsuits, promote consistency, and contribute to employee morale.

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## Labor relations

Unions have a significant presence in Washington cities. Most city employees have the right to organize under state law and have joined statewide unions or formed local associations. The city must negotiate labor contracts with these unions over wages, hours and working conditions.

In particular, most police and fire departments are unionized. Except for very small cities, police and fire unions have access to interest arbitration when an impasse in bargaining occurs. This can create a unique dynamic in police and fire negotiations, given the potential for an outside arbitrator to make decisions regarding wages, benefits and contract language.

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## Open government laws

Compliance with public disclosure and open meetings builds trust with your community. The Open Government Trainings Act requires elected officials to receive training on public disclosure, the Open Public Meetings Act (OPMA), and records retention within 90 days of taking office and every four years thereafter.

In partnership with MRSC, AWC provides the courses for free online. The eLearnings are available to watch anytime and they meet the Open Government Trainings Act requirement.

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## Local laws – ordinances and resolutions

How does the council adopt policy? Typically, a council will adopt policy by passing ordinances and resolutions at council meetings.

### Difference between ordinances and resolutions

An ordinance is a local law of a municipal corporation, prescribing general rules of conduct. Ordinances are used for a variety of purposes, including administrative actions such as establishing offices and setting salaries, or they may be used for actions that control the conduct of the public. An ordinance is a legislative enactment, within its sphere, as much as an act of the state Legislature.

A resolution, on the other hand, is typically an act that is less solemn or formal than an ordinance. Resolutions reflect the council's expression of policy and sometimes provide direction to the administration and staff. Legislation must be enacted via ordinance. Deciding what constitutes legislation may require reference to case law, but the general guiding principle is that "[a]ctions relating to subjects of a permanent and general character are usually regarded as legislative, and those providing for subjects of a temporary and special character are regarded as administrative..." (*Durocher v. King County*, 80 Wn.2d 139, 153, 492 P.2d 547, 1972).

When deciding whether to use an ordinance or a resolution, first refer to the city charter and state law (RCW). Some state statutes clearly define which action is needed, while others leave it to the discretion of the legislative body. If the charter and the code are silent as to the mode of decision-making, and the action is not "legislation," then either a resolution or an ordinance may be used.

### Rules for adopting ordinances

The state statutes for each class of municipality do contain some procedural requirements which govern the ordinance adoption. However, these procedural requirements are generally not complicated and do not require an elaborate adoption procedure. For a comprehensive discussion of adoption procedures, including information on requirements for signatures on ordinances and publication of ordinances, see *MRSC Local Ordinances for Washington Cities and Counties*.

Many cities and towns have adopted local rules of procedure that relate to the adoption of ordinances, and these, of course, must be followed. For example, although the state statutes do not require that an ordinance be read more than once (in most circumstances) prior to adoption, many local rules of procedure do contain such a requirement. Therefore, it is important that councilmembers familiarize themselves with the local rules of procedure as well as the state statutory requirements for the adoption of ordinances.

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**An ordinance is a local law of the city.**

**A resolution is typically an act that is less formal than an ordinance.**

# Practical advice

## Helpful pointers from other elected officials.

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### Leadership ...

- **Lead by example.** Be honest, consistent, flexible. Don't play games.
- **Use common sense.**
- **Don't be stampeded.** You may receive strong demands from special interest groups. Your job is to find the long-term public interest of the entire community.
- **Be clear on what you stand for.** List 10 things you believe in.
- **A new councilmember should have goals.** These are things you want to accomplish. But don't act rashly and assume that only you know the best way to accomplish things. Every issue will benefit from additional discussion. Your perceptions may change.
- **Use your role as a leader.** The dignity of your office can help the community get past contentious issues.
- **It can be uncomfortable to make very public decisions.** Sometimes the decisions feel like the end of the earth. It's easy to fear the political consequences. But it is important to look a little more long-term in perspective, weigh everything, and reach good decisions.
- **Know that you can't satisfy everyone.** Listen fairly and thoughtfully, and then do what's right.

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### Working with staff ...

- **Get to know staff and what they do.**
- **Say thank you!** Let folks know how much you appreciate them and give credit where credit is due.
- **Treat staff with respect** – they are a very valuable asset.
- **Be consistent.** Treat everyone the same.
- **Budget money for and encourage your staff to attend professional meetings and seminars.** These learning opportunities and the personal contacts can be invaluable to your city.

# Legislative advocacy

Many city officials don't realize just how much influence they have to help make changes at the state level. You are one of your legislator's constituents, and the experiences and city stories you share can yield positive results. Building good relationships and having strong communication with your legislators is key to being a good advocate for your city.

Use the time between legislative sessions (interim) to meet with your legislators. During the legislative session, you are lucky to have 15 minutes for a meeting, yet this is when most people try to talk to their legislators. Think differently! Schedule meetings with your legislator throughout the year, particularly during the interim. Once you have a meeting with your legislator, it's important that you make the most of it. Come prepared and consider the following:

- Brief legislators about your challenges and opportunities.
- Ask for monthly meetings or calls with your city, or a group of cities.
- Tell stories about real impacts on your constituents.
- Keep materials clear and concise.
- Ask for clear commitments to work on your issues.
- Connect with legislative assistants. Be clear about when you are representing your city's position and when you are speaking as an individual.

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## Develop a legislative agenda

Tell your legislators what you need from them. You can do this simply and effectively by developing and sharing your city's legislative agenda. City councils can vote to take official positions on state issues that affect the city. A legislative agenda is a good way to get your legislator's attention and tell them your priorities. When you talk to your legislators, be clear when you are communicating your personal opinion as opposed to the city's official position as voted on by you and your colleagues,

- Keep it short and simple.
- Get your city council to adopt it in the fall, before session begins.
- Include capital needs along with policy priorities.
- Incorporate AWC's Legislative Priorities into your agenda.
- Share it with your residents. Post it on your city's website, put it in your newsletters, and insert it into utility bills.
- Work with your local media for coverage.
- Share it with your legislators as soon as possible – it takes time to develop legislation and generate support.

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### Additional resources:

AWC's City Action Days conference (every winter in Olympia)

*Legislative Bulletin*, provided weekly throughout the legislative session and monthly the rest of the year

*Strong cities advocacy guide*

PDC's *Public Agency Lobbying Handbook*

Public Disclosure Commission

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## **Communicate with your constituents**

If you aren't communicating with your constituents about how your legislative agenda is faring, then who is? You and your legislators have the same constituents. Make sure your shared constituents know how decisions made in Olympia affect them at home. This is a powerful way to create legislator accountability.

- It is your responsibility to tell the public how their legislators are supporting your community. No one else will do this.
- Communicate with your constituents through city council meetings, public access TV, social media, and newsletters.
- Use your influence with community groups to make sure they know the full story.

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## **If you lobby, you may need to report to the PDC**

Cities that conduct lobbying activities either through a contract lobbyist, directly with in-house staff, or with city councilmembers may need to report to the Public Disclosure Commission (PDC). Those that hire a contract lobbyist must file a report. Cities that have in-house staff who spend more than four days a quarter directly lobbying the Legislature may need to complete a report. For more information on reporting requirements and how to file, visit the PDC's website. Cities that fail to comply with reporting requirements on lobbying activities may be subject to penalties from the PDC.

# Budget basics

The budget is one of the city’s strongest policymaking tools. Spending guidelines reflect numerous policy decisions and priorities. The budget message can give a clear view of city policy on many issues. It describes in narrative form significant items in the budget, financial trends, and the policy implications.

Setting policy through the budget is a continuous, year-long process. It involves setting goals and establishing priorities. Public participation is critical to the budget process, and is required by law, because of the many policy decisions involved. Once a budget is adopted, the mayor or city manager is responsible for carrying out the budget and councilmembers are responsible for monitoring program progress through periodic reports from staff and from the community. If programs are not effectively implementing policy decisions, revisions can be made.

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## The three types of budgets:

- **Operating budget** – These funds are for delivering services like police, fire, parks and library. The operating budget enables you to set policy. When most people think about their city’s budget, they’re referring to the operating budget. The operating budget is financed from the city’s ongoing general revenue sources.
- **Utility services** – These city-provided services are separately funded through user fees and taxes. Most cities provide sewer/water, many provide garbage and a few cities provide electricity, natural gas, and/or transit.
- **Capital budget** – This budget determines what capital improvements will be bought or built over several years, and how they will be financed.

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## The legal document

State law governs municipal budgets. Although no uniform budget document exists for cities, cities must use uniform revenue and expenditure categories specified by the state auditor (known as the BARS system). Cities can use either annual or biennial budgets, but most use annual.

In Washington, budgets must be balanced – anticipated revenues must equal forecasted expenditures. Unexpected revenues can be appropriated by a supplemental budget modification or can be allocated to reserve funds or to the following year’s beginning balance. Expenditures which exceed revenues can be made only by the council transferring funds from reserve accounts (subject to council approval) or by issuing interest bearing warrants.

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**In Washington, budgets must be balanced – anticipated revenues must equal forecasted expenditures.**



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## Additional resources:

*Budget Suggestions*, MRSC

Budgeting basics, AWC  
eLearning

*A Revenue Guide for Washington  
Cities and Towns*, MRSC

Center for Government  
Innovation, Washington State  
Auditor's Office

Financial Intelligence Tool,  
Washington State Auditor's  
Office

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## Budgeting methods

Cities and towns typically use one of three budgeting methods:

- **Line-item or incremental budgets** are used by most local governments. The budgets are prepared by adding proposed spending increases to current expenditure levels. It lists how much money will be spent on every item in a department. While this is the easiest budget method, it makes it difficult to analyze service delivery.
- **Priority-based budgeting/Program budgets** focus on specific services or outputs and involve allocating resources to obtain desired goals. This approach makes it easier to set priorities and select among competing programs and service alternatives, but it is more staff-intensive.
- **Zero-base budgeting** is a nontraditional budget process in which “decision packages” are prepared for various levels of service for each activity. Programs and activities are reviewed and ranked according to how they meet the city's goals. The lowest-ranking programs may be reduced or discontinued. Zero-base budgeting requires a high level of analysis and preparation.

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## The budget calendar

State law defines a city budget calendar, which specifies the timetable for completing the various steps leading to the budget's adoption. Many cities supplement the calendar with increased budget preparation during the summer, finance committee meetings during the fall, and ongoing budget reviews throughout the year.

Although many cities start the process earlier, the law requires department heads to prepare expenditure estimates for the coming year no later than the second Monday in September. The process ends when the final budget is adopted on or before December 31. Between these two dates, the clerk or other staff prepares the proposed preliminary budget for the mayor, the mayor or staff drafts the proposed budget and presents it to the council, and public hearings are held. The complete budget calendar, as spelled out in the statutes, along with the dates for the current year, is published each year in MRSC's *Budget Suggestions*.

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## The mayor/city manager's role

The state statutes provide details concerning the mayor/city manager's responsibility to prepare the preliminary budget and a “budget message.” Their authority to make transfers within individual funds is also spelled out in the statutes. (See Appendix 1.)

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## The council's role

The council's role starts with establishing strategic goals and priorities to provide a framework for the budget. The council then discusses and adopts the final budget, and amends the budget as needed. The council also sets city tax rates and fees.

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## **Putting the budget together**

Let's look at the actual budget process. It is definitely a team effort involving the mayor or city manager, council, and staff.

### **Setting policy**

The council sets public policy in two major ways: by enacting ordinances during the year, and by establishing budgetary (taxing and spending) policies. Your city administration influences policy through budget implementation and recommendations to the council as to what is needed.

### **Estimating expenditures**

Department heads prepare estimates based upon a projection of current trends, a forecast of the effect of new programs, and an estimate of what is needed to pay remaining bills.

### **Reviewing estimates**

The mayor or city manager (in a council-manager city) reviews the department requests, taking into account policy objectives and priorities for new or expanded programs. It's a give-and-take process, sometimes with department heads lobbying for their program or service. What develops is a preliminary budget.

### **Estimating revenues**

While expenditures are being estimated, the city's finance officer looks at revenues. Two key questions are raised: What factors impact future revenue flows, and what are the estimated level of revenues for the upcoming budget period? Once these questions are answered, revenue estimates should not be changed to accommodate additional spending desires.

### **Forecasting budgets**

Although it's an optional step, forecasting your projected revenues and expenditures for up to five years helps determine whether your city can maintain its service levels. This long-term analysis helps pinpoint whether any corrective actions are necessary.

### **Preparing the document**

The mayor/staff prepares the draft budget for council review. The actual budget document typically contains four parts: a budget message; a summary schedule of revenues and expenditures; detailed revenue elements; and expenditure details, with dollar and workload implications.

### **Adopting the budget**

The mayor or city manager presents the budget to the council and the public for review and adoption. Some cities use a budget committee for review. Hearings are held with department heads and with the public to review expenditure requests. Once the hearings are completed, a budget ordinance is enacted. The ordinance authorizes funding specific expenditures with specific resources.

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## Budget do's & don'ts

### Do:

- Find good basic training. AWC offers the Municipal Budgeting & Fiscal Management workshop annually.
- Evaluate materials and data carefully before you speak.
- Show your appreciation for staff. Respect their experience.
- Explore creative ways to meet your city's needs.

### Don't:

- Expect to be an instant expert.
- Drown in details.
- Criticize previous budgets until you know all the facts and can correctly interpret them.
- Try to immediately change traditional budget practices.

## Implementing the budget

The mayor/city manager's job is to implement the budget adopted by the council and to provide the council with periodic reports that show a comparison of accrued revenues and expenditures to the budget projections and appropriations. The law also requires the city to present a report of remaining expectation and unexpended balance for each appropriation to the council on a quarterly basis, however depending upon the financial condition of the city, it may be appropriate to provide a report more frequently. It is important to carefully monitor these budget results, which may be a function of the mayor's office.

## State audit

Each city is audited by the Washington State Auditor's Office (SAO), and the audit includes an assessment of the internal control procedures over this monitoring routine. The financial condition of each of the city's individual funds should be reviewed in a documented procedure that will provide SAO with the information needed for this audit assessment.

In particular, the auditor's office reviews budget adjustments and strategies to resolve shortfalls and unanticipated expenses. Documented communications between the mayor's office and the council will demonstrate these strategies and assist with the auditor's evaluation of financial condition and internal controls over the implementation and monitoring of the budget. A copy of the report should be on file in your city's administrative office and are also available online ([sao.wa.gov](http://sao.wa.gov)).

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## An inside look

Now that you know how the budget works, it is important to understand what the budget is – and what it is not.

### The budget:

- Expresses your community's priorities.
- Works as a plan to identify resources and expenditure flows.
- Operates an annual work program by identifying objectives, guiding program management, and evaluating existing expenditures.
- Responds to change. The budget process is dynamic – it must be flexible to meet public needs, keep up with technology, and adjust to financial circumstances.

### But the budget can't do it all. It will not:

- Be precisely accurate. The budget relies on estimates based on forecasts.
- Create efficiency. The budget is a resource allocation plan. It can't overcome obstacles in your management or staff structure.
- Establish public policy. Public policy is established through careful discussion before the budget is prepared.
- Make everyone happy. There will be winners and losers!

# Resolving and preventing mayor-council conflict

It is essential that mayors and councilmembers understand their roles and how they relate to each other and staff. Many conflicts in city governments happen due to role confusion, resulting in overstepping the boundaries between the respective roles.

Although the boundaries are not always clear, the basic roles of the mayor and council are derived from the basic structure of city government, whether yours is the mayor-council or council-manager form. There is some variation in the powers and duties of mayors and councils between classes of cities, so be aware of the specific rules applicable to your class of city.

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## Separation of powers

Like the federal and state governments, a city government's powers are distributed among three separate branches: legislative, executive, and judicial.

- The city council is similar to the state Legislature or Congress.
- The mayor or manager, like the governor and the president, heads the executive branch.
- The municipal court (or the district court by contract) exercises judicial functions, although in a more limited way than the state or federal courts.

Under the "separation of powers doctrine," each of the three branches exercises certain defined powers, free from unreasonable interference by the others; yet all three branches interact with each other as part of a "checks and balances" system. The powers of these branches in city government are defined for the most part by state statute.

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## The mayor or city manager's authority

As the chief executive and administrative officer of the city, the mayor or city manager is in charge of carrying out the policies set by the council and seeing that local laws are enforced. The mayor or city manager is basically in charge of the day-to-day operation of the city, including the supervision of all appointed officials and employees. The mayor or city manager oversees the hiring and firing of all appointed officers and employees, subject to civil laws, where applicable. Except for those in towns, councils have some authority to require confirmation of the appointment of certain officials. Councils may not, however, require confirmation of firings by the mayor or city manager.

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**The mayor or city manager is basically in charge of the day-to-day operation of the city, including the supervision of all appointed officials and employees.**

In general, the mayor or city manager also has the authority to:

- Enforce contracts.
- Bring lawsuits, with council approval.
- Preside over council meetings and, in some classes of cities, exercise some tie-breaking authority with respect to council votes and veto authority over ordinances.
- Call special meetings of the council.
- Prepare a proposed budget.
- Report to the council on the financial and other affairs and needs of the city.
- Approve or disapprove all official bonds and contractor's bonds.
- The mayor performs as ceremonial head of the city.

Consistent with the separation of powers doctrine, the council is not authorized to interfere with the mayor's administration of city government. Councilmembers may not give orders to department heads or to other city employees. To do its job, however, the council needs information on how the city is operating. The mayor, either directly or through other city staff, must provide that information and should do so in a timely and useful fashion.

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## **Council powers**

In general, it is the council's role to adopt policies for the city and it is the mayor's role to administer or carry out those policies. The council, being legislative, has the power to enact laws and policies, consistent with state law, usually through the enactment of ordinances and resolutions. The council also has specific authority to:

- Enact a city budget.
- Define the powers, functions, and duties of city officers and employees.
- Fix the compensation of officers and employees.
- Establish the working conditions of officers and employees.
- Maintain retirement and pension systems.
- Impose fines and penalties for violation of city ordinances.
- Enter into contracts.
- Regulate the acquisition, sale, ownership, and other disposition of real property.
- Provide governmental, recreational, educational, cultural, and social services.
- Impose taxes, if not prohibited by state law.
- Cause the city to own and operate utilities.
- Approve claims against the city.
- Grant franchises for the use of public ways.
- License, for the purpose of revenue and regulation, most any type of business.

In addition, the council is authorized to enact rules governing its procedures, including for public meetings and hearings.

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## The blurred line between policy and administration

Of course, things do not always run smoothly between the council and the city administration, and the line between policy and administration is sometimes not very clear.

One frequent source of conflict is personnel matters. The council may not like a mayor or city manager's appointment to a particular position, or it may be dissatisfied with the performance of certain officers or employees. An employee may complain to and seek relief from the council about some aspect of employment. On the other hand, the executive may believe that certain personnel policies interfere with their supervision of employees and hiring and firing authority.

The mayor or city manager may direct that all communications with city staff go through the mayor's office. The council, in response, may feel that the mayor is unlawfully restricting its access to city personnel for information purposes.

### Whose role is it?

The remedy for some of these situations may be to review the respective roles of the mayor and the council and to understand the limitations of their respective authorities. For example, if the council is not happy with a mayoral appointment, there may be nothing the council can do directly within the bounds of its authority. However, if it has the authority to confirm a particular appointment, it can reject the appointee and force the mayor to choose another. If the council does not have confirmation authority, it can express its dissatisfaction to the mayor, but it can do nothing else with respect to that particular appointment.

The council may, however, provide for a detailed personnel system that establishes specific qualifications for positions, requiring publication and public posting of job opening announcements. Moreover, the mayor or city manager, at least in code cities, is required by statute to make appointments "on the basis of ability and training or experience."

Similarly, if the council feels that an officer or employee is performing poorly and should be disciplined or fired, it can say so to the mayor or city manager, but it has no power to do anything else. Although it controls the salaries paid to city officers and employees, it may not lower a salary with the purpose of causing the person holding that position to quit.

A rule to follow is that the council (and the mayor) may not do indirectly what it cannot do directly.

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## Council and staff communication

On the issue of communication between the council and city officers and employees, the mayor or city manager may not prevent councilmembers from gaining information, although they could reasonably regulate the process by which requests or questions are made. If councilmember inquiries of city employees are interpreted as harassing or unreasonable and may take them away from their duties, it may be necessary for the mayor or city manager to require those inquiries to be channeled through the mayor's or a department head's office, if that can be done without unduly encumbering council access to information.

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**"The most important single ingredient in the formula of success is knowing how to get along with people."**

– Franklin D. Roosevelt

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**Additional resources:**

*Knowing the Territory - Basic Legal Guidelines for Washington City, County, and Special District Officials*, MRSC

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**Conflict in the finance arena**

Finance and budgets is another fertile area for conflict. For example, the mayor or city manager may decide not to take full advantage of the budget authorized by the council. The council may authorize a certain position at a certain salary, and the executive may decide either not to fill the position or may do so at half time and half salary. The mayor or city manager may cite financial emergencies, such as revenues falling short of projections, and may conclude that the city cannot afford someone filling this position full time. The council, on the other hand, may not agree that the conditions warrant such action or may determine that a different cost-saving measure is appropriate and should be instituted.

Resolution of this type of issue may prove particularly tricky. Although the mayor or city manager may not pay an employee less than is authorized by the council in the budget or in a separate salary ordinance, under certain financial circumstances, they may be able to partially fill a position, proportionately reducing the salary for the position. Legal authority, however, is hazy on such issues. The best strategy would be for the mayor or city manager and the council to work out a mutually agreeable accommodation.

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**Resolving conflicts**

There are other issues that will likely arise (and that have arisen in other cities) where it is not clear who has the ultimate authority to act, the mayor or city manager or council. In these situations, the council and the city administration could draw their respective battle swords and charge; or, one or both sides could first analyze the issue, perhaps seeking counsel of the city attorney or the consultants at MRSC. Some cities have also brought in an outside facilitator to help them resolve their conflicts.

When the roles are not clearly defined in a particular situation, and the law is not clear, compromise may be in order. All sides need flexibility to meet the challenges of a well-functioning city government. If the focus is on providing good government rather than on turf wars, councilmembers, mayors, and staff can better fulfill their roles as public servants.

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**The municipal/district court's authority over employees**

The presiding judge in municipal or district court is delegated the authority to supervise court employees and control the daily operation of the court in General Rule 29 of the Washington Court Rules (GR 29). Separation of powers issues can arise when the executive branch (i.e., the mayor) desires to terminate, appoint or otherwise discipline a court employee. These types of actions are not within the authority of the executive branch because RCW 3.50.080 and GR 29 reserve this authority for the presiding judge. The city council does retain the authority to set salaries and establish benefits for court employees.

Note however, that courts must engage in good faith collective bargaining with court employees. The Washington Supreme Court has determined that the requirement to bargain does not take away the court's inherent power to control the daily operation of the court and supervise court employees. *Washington State Council of County and City Employees v. Hahn*, 15 Wn. 2d 13 (2004).

## Questions & answers

**Q. If the mayor is out of town on an extended absence, should the mayor still be paid the regular salary?**

**A.** Yes, if the salary is paid monthly and is not based on attendance at council meetings. It would be possible for a city council to pass an ordinance suspending salaries when elected officials are absent on extended trips, but the ordinance would only apply to officials elected after the effective date of the ordinance.

**Q. Can councilmembers contact the city attorney directly, or do they have to go through the mayor?**

**A.** Councilmembers have the right to seek advice directly from the city attorney. However, for practical reasons, some cities have established procedures whereby the questions to the city attorney are routinely funneled through the mayor or city manager, or the executive's permission needs to be obtained prior to calling the city attorney.

**Q. Does the council have the authority to declare certain police cars to be surplus, and then sell them, even if the mayor/city manager disagrees?**

**A.** Yes, because the decision to surplus major pieces of equipment is a policy decision, not an administrative decision.

**Q. Can the city council fire an employee?**

**A.** No, termination decisions are the sole responsibility of the mayor/city manager, though a mayor's decision to terminate a civil service employee is generally appealable to the local civil service commission. Union employees may also be able to appeal such decisions to an arbitrator, if the labor contract provides for this.

**Q. Can the mayor (or city manager) of a code city authorize the purchase of a computer over the city council's objection?**

**A.** The city council has final authority over budgeting and contracting. If the executive would like to purchase a computer for use by a particular staff member, council approval is still required. The council can delegate purchasing authority to the mayor and administrative staff. Routine purchases which are clearly within the budget limits should be administrative decisions.

**Q. May the mayor (or city manager) refuse to carry out the directives of the council?**

**A.** In general, no. The executive's job is to carry out the policies enacted by the council. If a mayor believes that the city council is acting beyond its authority, or has adopted a policy which violates a statute or constitutional provision, the city attorney should be asked to provide a detailed opinion to guide the officials.

**Q. In the strong-mayor form of government, can the city establish a city administrator position and transfer some of the mayor's duties to that person?**

**A.** Though the council can establish the position and define the responsibilities of the job, the council has no authority to take powers from the mayor which have been granted to the mayor by state statutes. All staff work under the supervision of the mayor, and any city administrator is ultimately an assistant to the mayor.

**Q. If the mayor or city manager believes that it is crucial for certain city staff to attend training sessions held outside the city, can the council prohibit such trainings?**

**A.** Because the council controls the budget, sets policy and approves contracts, the council could prohibit expenditures for such trainings. The executive would need to convince the council that the training is a priority, perhaps proposing other spending cuts which would free up money for the training.

## Practical advice

Helpful pointers from other elected officials.

### Relationships within council ...

- **Appreciate each councilmember's special skills.** Get to know them personally. Find out what they think is important. Ask for their opinion.
- **Keep disagreements from getting too personal.** As one councilmember said, "If we can't sit up here and argue and then go out with the same people and have a cup of coffee, then we have no business being on the council."
- **Always be courteous to other councilmembers.** This includes new councilmembers who come on board with an agenda. Keep that door open.
- **A mayor needs to be open and honest.** Give councilmembers all the background information they need on issues. Don't do things behind people's backs. Keep everyone informed.
- **Address conflict head-on.**
- **Give the council enough information to make a knowledgeable decision.** But don't overdo it so much that they feel compelled to "micromanage."
- **Laugh together.** Share thoughts and dreams, and tell stories about yourself. Bring donuts!



# Roles of the mayor and council

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## Policymaking & implementation

### Mayor

- Keep council informed on city affairs.
- Propose policy.
- Implement policy adopted by council.
- Report back to council regarding policy implementation and possible improvements.

### Council

- Listen to city residents – keep track of their concerns and wishes.
- Discuss, develop, and adopt city policies governing many aspects of city operations.

## Personnel matters

### Mayor

- Hire, fire, supervise, and discipline all city employees (in some cities, council confirmation of certain appointments can be required). Civil service rules and labor contracts must be followed, if applicable.
- Negotiate labor contracts (sometimes mayor is not a member of negotiating team).

### Council

- Adopt personnel policies, establish positions, set wages and benefits – council should not meddle in mayor's supervision of employees or interfere with work of employees.
- Establish bargaining parameters and approve final labor contract.

## City budget

### Mayor

- Work with staff to develop preliminary budget.
- Lead council in process of establishing goals and priorities for the city.
- Implement budget adopted by council, provide regular financial reports, and present alternatives when council needs to deal with budget problems.

### Council

- Establish goals and priorities which provide framework for budget – discuss and adopt final budget – amend budget as needed.
- Set city tax rates, to the extent permitted by statutes.
- Set utility rates and other fees as required.

## Council meetings

### Mayor

- Prepare agenda, preside over meetings, report to council about city administration, propose policy initiatives or changes.
- Vote on measures allowed by the statutes. Veto ordinances, as permitted by statutes.
- As presider, facilitate an orderly meeting.

### Council

- Adopt council rules of procedure.
- Participate in preparation of council meeting agenda as provided in council rules.
- Discuss all policy matters and make decisions following the adopted rules.

## Land use and planning

### Mayor

- Supervise planning staff, who make recommendations to the planning commission and council on a broad range of planning issues.
- Supervise staff who enforce building codes and other development regulations.

### Council

- Adopt and amend zoning, development regulations, and comprehensive plan after receiving input from staff, residents, planning commission, and others.
- Act in quasi-judicial capacity to decide land use issues.
- Amend planning documents as necessary.

## City expenditures, contracts

### Mayor

- Sign contracts, supervise contract performance, enforce contracts.

### Council

- Approve contracts and all city expenditures.

## Relationships with other entities

### Mayor

- Represent city as official spokesman, in accordance with views or goals set by council.
- Act as official head of city for ceremonial events such as ribbon cuttings and sister-city contacts.

### Council

- Decide whether city will participate in optional government organizations, provide guidance to mayor or other city representatives.
- May serve as city representative on certain intergovernmental bodies where mayor is not designated member.

## Council meetings

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### **The mayor's role in the council meeting**

The mayor, as presiding officer, holds the key to an effective council meeting that runs smoothly and produces results. They not only participate in the meeting but also manage the process, the agenda items, and the people involved.

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### **Will the meeting come to order?**

As presiding officer, the duties of the mayor are to:

- Open the meeting on time and call the meeting to order.
  - Announce business on the agenda in the proper sequence.
  - Recognize members for motions and statements and allow audience participation at the appropriate times.
  - State and vote on all legitimate questions that arise during the meeting. If a motion is out of order, the mayor should rule it out of order.
  - Protect the council from frivolous or delaying motions by refusing to recognize them.
  - Enforce the rules of debate, make sure that speakers limit their remarks to the item being considered, and keep order at the meeting.
  - Expedite business in a way that is consistent with the rights of the members.
  - Decide all questions of order.
  - Respond to inquiries of members.
  - Declare the meeting adjourned.
- 

### **Legal requirements for meetings**

The mayor should become familiar with legal meeting requirements imposed by state law. This includes knowing adoption procedures for ordinances and resolutions, when executive sessions are appropriate, and what is involved in a quasi-judicial hearing.

The city attorney can help with these matters, but if the mayor knows the basics, it saves time and avoids illegal or incomplete actions. (See Appendix 4 for more details on what is required under the Open Public Meetings Act, and Appendix 7 for guidance on the appearance of fairness doctrine.)

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### **Council rules of procedure**

It is up to every council to establish rules for the conduct of its meetings. Some councils adopt standard rules, such as Robert's Rules of Order or some other rules of parliamentary procedure; and others develop their own customized bylaws which govern how council meetings proceed. Local rules are valid so long as they don't infringe on constitutional rights or conflict with state law. (See Appendix 6 for sample council procedures.)

### **What is parliamentary procedure and why should you use it?**

Parliamentary procedure is the set of rules or customs that regulates the procedure of legislative bodies. It governs how to make, amend, approve, or defeat a motion. There is no need to be intimidated – a mayor need not become a certified parliamentarian to effectively use the basic rules of procedure. Observing

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**Additional resources:**

*Robert's Rules of Order*

*American Institute of  
Parliamentarians Standard Code  
of Parliamentary Procedure*

*Mastering Council Meetings: A  
guidebook for elected officials  
and local governments*  
Ann Macfarlane & Andrew  
Estep

parliamentary procedures makes council meetings more efficient and reduces the chances of council actions being declared illegal or challenged for procedural deficiencies. (See Appendix 10 for a quick summary of parliamentary procedure.)

**Motions**

Business is brought before the council by motions, which are formal procedures for taking actions. To make a motion, a member must first be recognized by the presiding officer. After the member makes a motion (and after the motion is seconded if required), the chair must then restate it or rule it out of order, and then call for discussion. Most motions require a second, although there are some exceptions:

- Nominations;
- Points of order;
- Questions of privilege; and
- Calls for the order of the day.

**Voting and vetoes**

The mayor's ability to vote on and veto motions varies, according to the city's classification and form of government. (See Appendix 2, Voting and Vetoes.)

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**Whose meeting is it anyway?**

In general, mayors should remember that the council meeting is just that – it's the council's meeting, not the mayor's meeting. The council sets its own rules and has ultimate control over the agenda. The mayor's role is to chair the meeting.

The mayor must balance the benefits of efficient meetings with the importance of involving all members in the meeting. To be effective, the mayor needs the support of the councilmembers. Trust is built by showing evenhandedness and fairness to all participants. Trust also requires that the chairperson not use the powers of the chair unfairly to win a point or argument.

In addition to maintaining order and decorum at council meetings, the mayor must ensure that all motions are properly dealt with as they arise.

The mayor's refusal to allow a motion to be considered is subject to appeal, as are all of the mayor's decisions regarding procedures.

A simple majority vote is all that is required to overrule the mayor's decision on procedural issues, including adjournment. If the decision of the chair is sustained, no further action is taken; but if the decision of the chair is overruled by the council, the council goes forward with the discussion of the motion or other matter before it.

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**The mayor as meeting participant**

The mayor chairs all council meetings and, in some circumstances, is allowed to vote. The mayor might also wish to join the council in its discussions and deliberations. When mayors choose to participate, they have two competing goals: (1) as moderator, to make sure that the group achieves its goal; and (2) as an elected official, to both participate in the debate and help determine policies. Participation requires a balancing act between the moderator role and that of active engagement in debate. When the mayor decides to participate, they should

exercise restraint. Overly forceful participation can dampen council discussions and result in some councilmembers deferring to the mayor's comments, simply due to the perceived role as the mayor as boss.

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**Remember – It's the council's meeting, not the mayor's meeting.**

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## The council meeting agenda

There is no required format or order for the council meeting agenda. However, a typical agenda for a city council meeting looks like this:

- Call to order
- Roll call/Pledge of Allegiance
- Approval of agenda/minutes
- Comments from the public
- Consent agenda
- Ordinances & resolutions
- Public hearings
- Unfinished business
- New business
- Council action/discussion
- Committee reports
- Executive session
- Adjournment

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## The council's role in the council meeting

A city or town council meeting is the place to get the critical job of decision-making accomplished. A smoothly managed and productive council meeting does not necessarily guarantee good results, but it certainly helps.

Although the mayor presides over council meetings, the council as a body has ultimate authority over the matters that arise at a council meeting. As moderator, the mayor should facilitate the meeting while allowing full council participation, maintain order and decorum, and see that all motions are properly dealt with as they arise.

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## The agenda

One of the most crucial tools for orderly meetings is a well-organized and well-prepared agenda. The agenda ensures that councilmembers receive adequate information in advance on items for consideration.

While it is not mandatory at a city council meeting, the council should provide the opportunity for appropriate public participation. State law requires each city to establish a procedure to notify the public of the agenda for upcoming council meetings. Items on the agenda should be prioritized and organized as efficiently as possible, allocating enough time for major issues and minimizing time spent on trivial, noncontroversial issues. In addition, the city must make preliminary agendas available online at least 24 hours prior to a meeting unless it has no website or the city employs fewer than ten full-time equivalent employees.

### Who determines the agenda content?

Although the council has ultimate control over the agenda, typically it's left to the mayor, city manager, or clerk to draw up the agenda, based on council input. Some cities assign this task to an agenda committee or to a councilmember who assists the mayor or manager. At the start of a regular council meeting, a council can, by motion, change the agenda, change its order of business, or add a new item of business.

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## **Streamlining council meetings**

Even the best planned council meetings can deteriorate into endurance contests. Often, these are not productive meetings – exhausted people don't always make the best decisions. Here are some tips on things you can do to “shorten” meetings.

### **Regulating talk**

Too much talking is the most common cause of lengthy meetings. If members of the public addressing the council ramble, the mayor might tell them to confine their remarks to the subject at hand and conclude as quickly as possible. Many council procedures limit public comment to 3-5 minutes and limit the number of speakers on any one topic. Another idea is to include an approximate starting time for each major agenda item. This information may be useful to city residents attending the meeting.

If the problem is created by a talkative councilmember, a simple statement such as “it’s getting late and we must move along” usually will work, though a private conversation later on may be needed to handle chronic talkers.

### **Shortening the agenda**

An important consideration in making the agenda manageable is to keep it as short as possible. The council agenda is the place for formal actions on the part of the governing body. In general, every regular meeting agenda item should include an instrument for council action. Items that are solely for the information and advice of the council should be provided outside the formal agenda process.

### **“Consent” agendas**

The consent agenda helps streamline council meetings. Routine, noncontroversial items are listed collectively on the agenda and are passed with a single motion and vote.

In some cities, the actual items placed on each consent agenda are selected at a weekly city department heads’ meeting. In others, an agenda committee chooses the consent items.

- Commonly, there is no debate allowed on the consent agenda or on any item included in it.
- Consent items may be read by title only.
- Any councilmember can have an item removed from the consent agenda for separate consideration. In addition, some cities allow any person attending the regular council meeting to request that an item be voted on independently. The remainder of the consent agenda can be voted on, omitting the challenged items.

Setting up a consent agenda system may require preliminary action by the council in the form of adopting an ordinance or resolution or amending the council rules.

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## Council work sessions

Informal council work sessions may be needed occasionally to study certain matters in detail. These are often held in conjunction with budget review. Work sessions also are useful when major policy questions must be decided, or when a complicated ordinance, such as a building code, comes before the council.

Note: The Washington Open Public Meetings Act applies to all council meetings and work sessions, whether formal or informal. (See Appendix 4, Open Public Meetings Act.)

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## The subcommittee\*

Many elected bodies divide into subcommittees to study specific issues. Elected bodies may have both standing and ad hoc subcommittees. Subcommittees can either facilitate the decision-making process or consume unwarranted amounts of time and effort. Here are some pointers on the use of subcommittees:

1. **Clearly define the mission** before creating a subcommittee.
2. **Set deadlines** for reports.
3. **Monitor assignments** to check on progress.
4. **Establish expiration** provisions and enforce them.
5. **Rotate membership** periodically.
6. **Keep nonmembers informed** of meetings and actions.
7. **Monitor the amount of staff effort** required.
8. **Review the list of subcommittees annually** and delete those that are no longer necessary.

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## Meeting diagnosis\*

- Meetings start on time.
- Meetings end at a reasonable hour.
- The council sticks to the agenda.
- The public is encouraged to participate.
- The council does not attempt to engineer “how-to” details at the meeting.
- No one tends to dominate the discussion.
- All members participate.
- Members do not engage in side conversations during the meeting.
- Members actively listen to each other.
- Members do their homework.
- Unnecessary meetings are not called.
- Packed audiences do not unduly sway the council.

\*Source: *Elected Official's Little Handbook*, Len Wood.

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## **Voting guide**

### **Quorum**

The general rule governing the transaction of council business is that a majority of councilmembers must be present at the meeting to constitute a quorum. This means four members of a seven-member council and three members of a five-member council.

### **Abstentions**

In the absence of a local rule to the contrary, councilmembers are free to abstain from voting on any issue before the council. Some cities have adopted local rules of procedure allowing abstentions only when the councilmember states their reason for abstaining. Other cities require councilmembers to vote on all matters before the council unless a conflict of interest exists. When a conflict of interest exists, a councilmember should refrain from voting. Generally, however, other councilmembers cannot restrain a councilmember from voting due to a conflict of interest or for any other reason.

The effect of an abstention on a vote is not specified by state law. Municipalities are free to adopt local rules of procedure stating the effect of an abstention. See Appendix 6, Sample City Council Rules of Procedure (Rule 5.4) for an example of a rule which provides that failure to vote when there is no valid disqualification is counted as an affirmative vote on the question. If a city does not have a rule, abstentions by one or more councilmembers may make it impossible for final action to be taken on a matter, particularly where a majority vote of the full council is needed.

### **Voting by proxy, attending meetings remotely**

It is a fundamental rule of parliamentary law that the right to vote is limited to those members who are present at the time a vote is taken at a legal meeting (either physically, by phone, or through a virtual meeting service such as Zoom). Therefore, as a general rule, proxy votes are not permitted.

Prior to the COVID-19 pandemic, the general rule was that councilmembers must be physically present at council meetings unless the council authorized a councilmember to participate remotely by phone or a computer link. During a significant portion of the COVID-19 pandemic, governing bodies were required to meet virtually pursuant to emergency proclamations issued by the governor. As a result, cities and other forms of local governments became more accustomed to working with virtual meeting technology. As of this writing, there has not been a permanent change to state law with respect to virtual participation by councilmembers, but it is likely to be addressed in upcoming legislative sessions.

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## Mayor's authority to vote

### Charter cities

In charter cities, each city charter governs the voting powers of the mayor.

### Mayor-council form

Under the mayor-council form of government, the mayor may vote only in case of a tie vote of the council. However, statutes for each class of city may further limit the mayor's tie-breaking authority, as follows:

**Second class cities.** Because at least four councilmember votes are required to pass any ordinance, resolution, or order (RCW 35.23.211), the mayor cannot break a tie vote on those matters.

**Towns.** At least three councilmembers must vote to pass any resolution or order for the payment of money (RCW 35.27.270) or to pass an ordinance or resolution granting a franchise (RCW 35.27.330). Thus, the mayor's vote cannot be used to break a tie vote on these issues.

**Code cities.** A majority of the entire membership of the council is required to vote to pass any ordinance, grant, revocation of franchise or license, or any resolution for the payment of money (RCW 35A.12.120). Therefore, the mayor may not break a tie vote on these matters.

### Council-manager form

In all cities operating under the council-manager form of government, the mayor is eligible to vote in their capacity as councilmember.

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## Mayor's veto power

- In **charter cities**, each city charter governs the veto powers of the mayor.
- In **council-manager cities**, the mayor votes as a councilmember and has no veto power.
- In **second class mayor-council cities**, the mayor may veto an ordinance, but the mayor's veto can be overruled by five members of the council (RCW 35.23.211).
- In **towns**, the mayor has no veto power.
- In **mayor-council code cities**, the mayor may veto an ordinance, but the mayor's veto can be overruled by a majority plus one of the entire council membership (RCW 35A.12.100).



## Questions & answers

### **Q. Can a meeting of the city council be opened with a prayer?**

**A.** Courts have ruled that beginning a local government public meeting with a nondenominational prayer, or a silent meditation of a short duration, does not violate the U.S. Constitution. Keep in mind, however, that many residents have strong feelings about their own particular religious beliefs, and some residents adamantly feel that religion and government should not be mixed. The decision concerning whether meetings open with an invocation should be made by the council, not by the mayor. Most cities in Washington have chosen to not commence their meetings with an invocation.

### **Q. Who, if anyone, can make a motion for reconsideration where a matter was defeated by a tie vote?**

**A.** Under Robert's Rules, §36, anyone who was on the prevailing side of a vote can make a motion to reconsider, and the prevailing side need not be a majority, such as when a tie vote functions to defeat a matter. In that case, those who voted no would be entitled to make the motion to reconsider.

### **Q. Can the mayor unilaterally adjourn a council meeting?**

**A.** No, not in normal circumstances. The mayor can request that a councilmember move that the meeting be adjourned, but the motion and subsequent vote are up to the council. If there is a disruption during a council meeting which requires a break in the meeting to restore order, it would be appropriate for the mayor to announce that the meeting is adjourned for ten minutes, but other than that, it is up to the council whether they wish to continue dealing with business.

### **Q. May a councilmember who was absent when a vote was taken move to reconsider that vote?**

**A.** No. An absent member could not have been on the prevailing side, or any side, for that matter.

### **Q. If the council passes an ordinance at one meeting, can that ordinance be reconsidered at the subsequent meeting?**

**A.** If the ordinance was passed and signed by the mayor, then the ordinance can subsequently be amended or repealed, but not reconsidered.

### **Q. Does the mayor in a code city have veto power over ordinances?**

**A.** Under RCW 35A.12.100, the mayor in a council-mayor code city has the power to veto ordinances passed by the city council, although a mayor's veto may be overridden by a majority of the council plus one. This is not a "line item" veto, but rather a veto over an entire ordinance only.

# Practical advice

Helpful pointers from other Washington mayors.

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## Presiding over meetings ...

- **Work at running an efficient meeting.** Even if you live in a small town, it's important to run your meetings professionally and act professionally.
- **It is very important to have formal meetings and know Roberts Rules of Order.** One of the mistakes (particularly in small cities) is trying to be very informal. Recognize "Councilmember Smith" rather than "George." This also helps keep the debate from getting too personal.
- **Be careful with executive sessions.** Only use executive sessions for issues that are specifically allowed.
- **Bring some humor to the council meetings.** Keep your cool!
- **Insist upon decorum in council meetings.** Be courteous to members of the public and let them know you appreciate their comments.
- **Don't spring surprises on your councilmembers or city staff,** especially at public meetings. If a matter is worth discussing, it is worth putting on the agenda. Surprises may get you publicity, but they may embarrass others and tend to erode the "team" approach to governance.
- **Have your city attorney attend your council meetings,** but don't expect the attorney to know all the answers right on the spot. Give the attorney time to research issues.



# Community participation at council meetings

The public evaluates the performance of its elected officials to a great extent by what happens at meetings. Many residents form their total opinions of the city government on the basis of having attended just one council meeting. This is the time to impress your community favorably and show them that the council is capable of doing its job.

The public comment period is a time slot set aside on the agenda for city residents to address the council on any subject. It is not to be confused with a public hearing, which is a formal proceeding conducted for the purpose of discussing a specific topic, such as the city budget or a proposed rezoning.

Local practices vary considerably with respect to reserving a place on the agenda for public participation. Although not required by state law, councils will often provide an opportunity for members of the public to address the council. If allowed, many councils will put this item toward the top of the agenda, so that residents can make an appearance early in the meeting and then go about their business. Other councils reserve a place for public comment at the very end of the agenda, while others make no provision at all. The presiding officer should inform visitors of the place on the agenda where they will be recognized to speak. If an exceptionally controversial item draws a large crowd, it is generally wise to state the approximate time the item will come up for discussion.

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## Move the agenda along

In the interest of time, some councils limit public comment to three or five minutes. A council should enforce comment time limits in a consistent and evenhanded manner.

Don't allow verbal exchanges between residents and councilmembers, especially if they concern administrative problems that can be solved by the staff during regular city hall hours. Public comment is a time for members of the public to voice concerns to the council, but debate between commenters and councilmembers is rarely a productive use of time.

When a city allows for public comment, speakers enjoy free speech rights under the First Amendment. That means that the council should not interrupt or cut off a speaker merely because it disagrees with the content or manner of their speech. Rather, a speaker's comments may be halted only if they cause an "actual disruption" of the meeting. See *Acosta v. City of Costa Mesa*, 718 F.3d 800 (9th Cir. 2013).

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## Dealing with critics and advocacy groups

Criticism of government and a lack of confidence in our country's elected leaders are rampant these days, even at the local level. External conflict, while stressful, can help frame the issues and provide other perspectives. Most important, it often shows that people feel left out and alienated from the governing body.

Providing for public comment at council meetings ensures that the needs of advocacy groups are appropriately balanced with the organization's mission and the greater needs of the community. How the governing body reacts will determine whether the conflict is diffused or spills over to other issues.

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**Many residents form their total opinion of the city government based on having attended just one council meeting**

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### **Ask the public...**

- How will this proposal affect you?
- What do you think about the proposed action?
- What are your concerns?
- What other ways can you suggest for solving the problem?

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### **The mayor's role in managing difficult meetings\***

From time to time, elected bodies are faced with conducting highly charged, controversial meetings, full of aggression and hostility. Such meetings really test the elected body and staff. Here are some ideas on handling those difficult meetings:

#### **Before the meeting**

- Try to get the participants to designate a spokesperson.
- Make agendas and back-up reports easily available to participants.
- Make sure adequate seating is available. Consider moving to larger quarters if necessary.
- Make sure sound and recording equipment is adequate and operational.

#### **During the meeting**

- Explain the issues, the possible actions and the procedures that will be followed at the meeting.
- Don't waste time or try the patience of participants at the beginning of the meeting on routine items such as correcting the minutes.
- Have speakers address the elected body and not the audience. Some speakers are very adept at inciting audiences, especially if they are permitted to face the audience.
- Explain at the beginning why clapping, shouting and other such demonstrations are counterproductive and stop such actions as soon as they occur.
- Use recesses to help diffuse hostility or aggressiveness.
- Consider limiting speakers to a set time such as three to five minutes. If such a procedure is used, make sure it's applied consistently.
- Consider using speaker cards that are filled out and turned in at the beginning of the meeting. The cards can help identify how many people wish to speak and whether they support or contest an issue. They are also invaluable in recording the names and addresses of speakers. Recognize, however, that persons not wishing to fill out a card may still have the legal right to speak.
- Make sure elected members address colleagues and not the audience. Directly addressing the audience can result in loss of control of the meeting.
- Immediately continue items that cannot be decided at the meeting. This does not preclude the elected body from allowing anyone who wishes to speak on the issue to do so.

\*Source: *Elected Official's Little Handbook*, Len Wood.

## Ethical issues

Part of being a public official is subjecting yourself to public scrutiny. Like it or not, the public expects you to behave according to higher standards than the next person on the street.

The following list includes some of the more common problems that get newspaper coverage. At the very least, most will result in public criticism. They can also be terminal to your career.

- **Credit cards.** Using city credit cards for an unauthorized expenditure or to charge a personal item (even if the amount is repaid later).
- **Travel and conferences.** Submitting inflated or false travel expenses. This includes using agency funds for personal trips or vacations.
- **Use of letterhead.** Using official letterhead to endorse another political candidate or to achieve a personal or business gain.
- **Use of agency vehicles.** Using an agency vehicle for personal trips, vacations or political campaign activities.
- **Phones, fax and computers.** Using official equipment for personal purposes.
- **Agency staff.** Using agency staff and resources for personal services or political campaigning.
- **Confidentiality.** Divulging privileged personnel, legal or executive session information.
- **Sexual harassment.** Telling inappropriate jokes at meetings, making improper comments, or touching staff.

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### State and local ethics laws

State law provides a specific code of ethics for city officials. RCW 42.23.070 prohibits a municipal official from:

- Using their position to secure special privileges or exemptions for themselves or others.
- Directly or indirectly, giving or receiving any compensation, gift, gratuity, or reward from any sources, except the employing city, for a matter related to the official's services.
- Accepting employment or engaging in business that the officer might reasonably expect would require them to disclose confidential information acquired by reason of their position.
- Disclosing confidential information gained by reason of the officer's position or using such information for personal gain.

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### Private interest in public contracts

State law also forbids city officials from having personal financial interests in public contracts under their jurisdiction, regardless of whether or not they vote on the matter. There are a few exceptions, some based on contract amounts. Review the statute carefully and when in doubt, consult with your city attorney (RCW 42.23.030).

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### If you're not sure what to do, ask:

- Is it legal?
- Is it ethical?
- Is it the right thing to do?

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**Additional resource:**

*Knowing the Territory, MRSC*

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**Local ethics codes**

Be aware that your city may have a local ethics code that interprets or supplements the state laws. There are also requirements for cities to establish their own whistleblower process, providing a means for employees to report improper governmental actions. Ask your clerk or attorney for a copy of any local ordinances or guidelines relating to ethics and conflict of interest.

**Questions & answers**

**Q. Are elected officials prohibited from accepting even promotional gift items of minimal intrinsic value from someone who does or may seek to do business with the city?**

**A.** Many officials, either because of the broad language of the ethics statute or on principle, refuse to accept even a business lunch under those circumstances. Others might regard items of only token or trivial value to be “de minimis”, i.e., of insufficient amount to cause legal concern.

In any case, prudence is always advisable to avoid even the appearance of impropriety. Also, because the words “token” and “trivial” may have varying interpretations, a city council may wish to provide more specific guidance in a local code of ethics.

**Q. Can the mayor hire a councilmember to work part-time for the city?**

**A.** It depends. Even if a councilmember has special skills of benefit to the city, RCW 42.23.030 restricts the amount of money which can be paid to a councilmember by a city over the course of a year. For a city with a population of 10,000 or more, the amount that can be paid is zero. Additionally, a councilmember may not hold another “office” of the city. Finally, be aware that it can be awkward to have the mayor supervising a councilmember in an employer/employee relationship. Review any plans to employ a councilmember, in any capacity, with the city attorney.

**Q. Can the city do business with a company owned by a mayor or councilmember?**

**A.** Watch out! If the amount of the overall contract exceeds \$18,000 (zero if the city’s population is 10,000 or more), there can be serious consequences, including forfeiture of office (RCW 42.23.050). For example, a city councilmember cannot be a subcontractor on a city construction project if the overall project cost exceeds \$18,000 (RCW 42.23.030). If the city’s population is 10,000 or more, there can be no interest in a contract.

## Resources

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### Who to contact when you need help

#### Municipal Research & Services Center of Washington (MRSC)

Here's the first place to start when you don't know where to go. Several consultants at MRSC can answer your questions over the phone or in writing. Staff experience includes municipal law, budgeting & finance, planning & growth management, public works & utilities, and public policy. MRSC's library is full of useful reference materials and includes actual city policies and ordinances. MRSC has a great website containing a wealth of information relevant to local governments in Washington state. The site also includes links to other useful websites such as state agencies.

#### MRSC

2601 4th Avenue, Suite 800  
Seattle, WA 98121-1280  
206.625.1300  
1.800.933.6772  
Fax 206.625.1220  
mrsc@mrsc.org  
www.mrsc.org

#### Association of Washington Cities (AWC)

AWC serves its members through advocacy, education, and services. Founded in 1933, AWC is a private, nonprofit, nonpartisan corporation that represents Washington's cities and towns before the state legislature, the state executive branch, and with regulatory agencies. AWC also provides training, data and publications, and programs such as the AWC Employee Benefit Trust, AWC Risk Management Service Agency, AWC Workers' Comp Retro, AWC Drug & Alcohol Consortium, and AWC GIS Consortium.

#### AWC

1076 Franklin Street SE  
Olympia, WA 98501-1346  
360.753.4137  
1.800.562.8981  
Fax 360.753.0149  
wacities.org

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### Other ideas for helpful contacts

Here are some other ideas for you to contact when you have a problem or need information:

#### Neighboring jurisdictions

Many cities in the state have formed regional groups of mayors and other elected officials that meet periodically. Or call an experienced mayor with a neighboring city (they are usually honored to be called upon as an "expert").

#### Your liability insurance provider

Most cities in the state are covered by one of three insurance pools that provide property and liability insurance. Find out from your city clerk who your provider is. Depending on the pool, they offer a variety of resources. For example, if you're doing something where you expect a lawsuit might be filed, contact your risk pool before you take action. They can provide invaluable advice, legal resources, sample policies, and training resources.

#### Forging partnerships

Introduce yourself to and meet with other public agencies in your region. They may be able to help, share resources, or co-sponsor training. Examples: county, port, local economic development agency, public utility district, fire district, state agencies with an office in your area, and school districts. It may also help to contact any jurisdictions that provide contractual services to your jurisdiction.



# MRSC publications

MRSC maintains the following selected resources for city officials and staff at [mrsc.org](http://mrsc.org). Any of the publications below can be downloaded at [mrsc.org/Home/Publications.aspx](http://mrsc.org/Home/Publications.aspx) or found by browsing the MRSC website using the search toolbar.

## ***The Appearance of Fairness Doctrine in Washington State***

This publication is an overview of the appearance of fairness statute, including suggestions for assuring compliance, commonly asked questions, and a summary of cases.

## ***Budget Suggestions***

This annual publication contains the latest information about things that might impact your city budget such as state-shared revenue distributions, new legislation, and economic trends. Highlights include revenue forecasts, CPI and IPD information, budget calendars, fire insurance premium tax estimates, and more.

## ***Candidate Information Resources for Local Government Elective Offices***

This webpage provides candidate information resources of special interest to candidates for local government elected office in Washington state.

## ***The City Bidding Book***

This book helps city officials determine whether competitive bids are required for acquiring purchases, services, or contracting for public works.

## ***Code City Handbook***

A handbook providing essential information for code city officials and indicating their powers, duties, and alternatives that are available under the applicable forms of municipal government.

## ***Knowing the Territory – Basic Legal Guidelines for City, County, and Special District Officials***

A guideline detailing the dos and don'ts regarding the exercise of governmental powers including conflicts of interest, the Open Public Meetings Act, appearance of fairness doctrine, and similar laws. It also points out immunities and protections for public officials.

## ***The Open Public Meetings Act: How it Applies to Washington Cities, Counties, and Special Purpose Districts***

This publication covers the requirements under the Open Public Meetings Act – including procedural requirements, executive sessions, appearance of fairness, exemptions, and penalties – and identifies relevant case law and attorney general opinions.

## ***Public Records Act for Washington Cities, Counties, and Special Purpose Districts***

This frequently updated publication provides a basic outline of the Public Records Act (PRA) and the procedures to follow when responding to public records requests for documents.

## ***Quick Guide for Newly Elected City Officials***

The web guide provides a quick introduction to the core duties and responsibilities of newly elected city officials in Washington state, along with recommended resources for more information.

## ***A Revenue Guide for Washington Cities and Towns***

This guide describes the major, and many of the minor, revenue sources that can be used for general government purposes. It includes common questions and answers.

## ***Washington City & Town Officials Directory Mobile App***

Download MRSC's directory of Washington city and town officials as a mobile app. Visit [mrsc.org](http://mrsc.org) to browse the directory of city officials, city halls, phone numbers, emails, population, and city class/form of government. Or use the same website to download the app under "Research Tools" and "Washington City and Town Profiles."

# AWC publications

The following publications are available from AWC online or in print. Ask your city clerk or call AWC to request any publication. Visit [wacities.org](http://wacities.org) and browse these publications and more under the “Data & Resources” tab.

## **Cityvision magazine**

An award-winning magazine that examines municipal issues and trends from a high level, with articles that analyze and offer insight. The magazine creates a voice for city officials and provides another leadership tool and resource to build awareness of city issues with readers outside of city hall.

## **CityVoice newsletter**

A weekly electronic publication sent on Wednesdays to all city officials and AWC partners. The newsletter delivers information relevant to cities including breaking news, state and federal updates, tools and resources, research and data, training opportunities, grant notices, and AWC JobNet postings.

## **Elected officials’ road map**

A visual road map to help guide elected officials through their roles, including what the city does and what to know about working in elected office.

## **Equity Resource Guide: Tools and case studies for Washington cities**

This resource guide outlines policy opportunities and intentional actions that cities can use to promote racial diversity, equity, and inclusion (DEI) for all residents.

## **Exploring Washington’s Cities and Towns**

This high-level resource offers a clear and persuasive description of the essential role they play. Find ready-to-share information and graphics that help educate your community about how cities budget and spend, what city governments do, and what city employees do every day to make our communities shine.

## **Homelessness & housing toolkit for cities**

This publication provides real-world examples of tools and actions Washington cities have used in responding to the issues of homelessness and affordable housing.

## **Legislative Bulletin**

This electronic publication is delivered weekly throughout the legislative session and monthly the rest of the year. The newsletter covers major issue areas and provides quick referencing by issue area.

## **Small City Resource Manual**

This easy-to-use guide helps elected and appointed officials navigate the complexities of policymaking, governance, and operational matters in a small- to medium-sized city.

## **So you want to be an elected official...**

Cities can give this resource to prospective candidates for municipal office. The pamphlet provides general information about how to work as part of a team, what cities do, roles and responsibilities, and where to find more information.

## **State of the Cities: Housing report**

A report that examines the challenges cities are facing, details what policy and financial tools cities are using to address the issue, and highlights additional approaches that could help increase affordable housing stock statewide.

## **Strong cities advocacy guide**

What can you do to help promote a strong city-state partnership? This online guide contains tips for simple actions that city officials can take to advocate for strong cities, like maintaining and building stronger relationships with your legislators and working with constituents keep the Legislature accountable.

## **Tax and User Fee Survey**

Municipal water, sewer, and stormwater rates collected via member survey, compiled and posted on AWC’s website as an aid to benchmarking, policy discussions, and utility rate setting. Historical rates are available from 2006-present.

## **Washington City & County Employee Salary & Benefit Survey**

Find comprehensive salary and benefits data for over 120 job classifications from nearly every city and county in the state. Data is collected annually and made available to those who represent management via an online reporting tool.

## **Washington State Public Employer Overtime Guide – FLSA**

The Overtime Guide outlines the major provisions of the Fair Labor Standards Act (FLSA) and Washington Minimum Wage Act. It provides practical advice for public employers to comply with complex laws and minimize overtime liability.

## **You have it, use it: Home rule in Washington**

This report explores the existing authority that cities have to make decisions and laws close to home, along with the history of local control and legal attempts to clarify or undermine this authority.



# Appendices

Appendix 1 – Overview of statutes defining and limiting the authority of a mayor

Appendix 2 – Voting & vetoes: A guide for mayors

Appendix 3 – Public records disclosure

Appendix 4 – Open Public Meetings Act

Appendix 5 – Public hearings

Appendix 6 – Sample city council rules of procedure for mayor-council code cities

Appendix 7 – Sample procedures: Appearance of fairness and quasi-judicial hearing

Appendix 8 – Public participation: Tips for talking with the council

Appendix 9 – Meeting tips

Appendix 10 – Parliamentary procedure

Appendix 11 – Keeping out of trouble

Appendix 12 – Initiative, referendum, and recall

Appendix 13 – The mayor pro tempore

Definitions



# Overview of statutes defining and limiting the authority of a mayor

Text in italics is taken directly from the state statutes (RCW) or state administrative code (WAC).

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## First class cities – mayor’s authority (RCW 35.22)

Currently first class cities in Washington have their government structured in accordance with their charters. Because of the variance in charter provisions, this appendix does not deal with the role of a mayor in a first class city.

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## Second class cities – mayor’s authority (RCW 35.23)

No second class cities in Washington operate under the council-manager form of government.

### Appointment and termination authority

*The mayor shall appoint and at his or her pleasure may remove all appointive officers except as otherwise provided herein: PROVIDED, that municipal judges shall be removed only upon conviction of misconduct or malfeasance in office, or because of physical or mental disability rendering the judge incapable of performing the duties of his or her office. Every appointment or removal must be in writing signed by the mayor and filed with the city clerk.*<sup>1</sup>

Though the mayor has broad authority to terminate employees, because such action sometimes results in litigation we recommend that the mayor review termination decisions and procedures carefully with the city attorney prior to taking action.

### Authority to fill vacancies in appointive positions

*Vacancies in offices other than that of mayor or city councilmember shall be filled by appointment of the mayor.*

*If there is a temporary vacancy in an appointive office due to illness, absence from the city or other temporary inability to act, the mayor may appoint a temporary appointee to exercise the duties of the office until the temporary disability of the incumbent is removed.*<sup>2</sup>

### Authority over police

*The department of police in a city of the second class shall be under the direction and control of the chief of police subject to the direction of the mayor.*<sup>3</sup>

### Authority to call special meetings of the city council

*Special meetings may be called by the mayor by written notice as provided in RCW 42.30.080. No ordinances shall be passed or contract let or entered into, or bill for the payment of money allowed at any special meeting.*<sup>4</sup>

Note that a statute in the Open Public Meetings Act also authorizes a majority of the city council to call a special meeting:

*A special meeting may be called at any time by the presiding officer of the governing body of a public agency or by a majority of the members of the governing body by delivering personally or by mail written notice to each member of the governing body ...*<sup>5</sup>

### Authority to administer oaths and sign specified documents

*The mayor and the mayor pro tempore shall have power to administer oaths and affirmations, take affidavits and certify them. The mayor or the mayor pro tempore when acting as mayor, shall sign all conveyances made by the city and all instruments which require the seal of the city.*<sup>6</sup>

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### Vacancies in council positions

*The council of a second class city may declare a council position vacant if the councilmember is absent for three consecutive regular meetings without permission of the council. In addition, a vacancy in an elective office shall occur and shall be filled as provided in RCW 42.12.*<sup>7</sup>

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### Authority to preside at city council meetings, break tie votes

*All meetings of the council shall be presided over by the mayor, or, in the mayor’s absence, by the mayor pro tempore. The mayor shall have a vote only in the case of a tie in the votes of the councilmembers.*<sup>8</sup>

Note that because at least four councilmember votes are required for the passage of any ordinance, resolution, or order, the mayor cannot break a tie vote on those matters, but can break a tie on other matters.

<sup>1</sup>RCW 35.23.021, in part

<sup>2</sup>RCW 35.23.101, in part

<sup>3</sup>RCW 35.23.161, in part

<sup>4</sup>RCW 35.23.181

<sup>5</sup>RCW 42.30.080, in part

<sup>6</sup>RCW 35.23.191, in part

<sup>7</sup>RCW 35.23.101, in part

<sup>8</sup>RCW 35.23.201

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## Authority to sign and veto ordinances

Every ordinance which passes the council in order to become valid must be presented to the mayor; if the mayor approves it, the mayor shall sign it, but if not, the mayor shall return it with written objections to the council and the council shall cause the mayor's objections to be entered at large upon the journal and proceed to a reconsideration thereof. If upon reconsideration five members of the council voting upon a call of yeas and nays favor its passage, the ordinance shall become valid notwithstanding the mayor's veto. If the mayor fails for ten days to either approve or veto an ordinance, it shall become valid without the approval of the mayor.

Every ordinance shall be signed by the mayor and attested by the clerk.<sup>9</sup>

Though the statutes defining the role of the mayor in a second class city are limited, it is clear that the mayor is to function as the chief executive and administrative officer of the city. The powers of the city council in a second class mayor-council city are listed primarily in RCW 35.23.440 and 35.23.452. Though the city council has many powers, it is the mayor who appoints the other officers and subordinate employees who carry out the policies adopted by the council.

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## Preliminary budget preparation

RCW 35.33 sets out the budget responsibilities of a mayor in a second class city or town. First, there is a definition providing that the mayor is the "chief administrative officer" of the city as that term is used in the budget statutes:

*"Chief administrative officer" as used in this chapter includes the mayor of cities or towns having a mayor council form of government, ... or the budget or finance officer designated by the mayor ... to perform the functions, or portions thereof, contemplated by this chapter.*<sup>10</sup>

*The chief administrative officer shall prepare the preliminary budget in detail, making any revisions or additions to the reports of the department heads deemed advisable by such chief administrative officer and at least sixty days before the beginning of the city's or town's next fiscal year he shall file it with the clerk as the recommendation of the chief administrative officer for the final budget. The clerk shall provide a sufficient number of copies of such preliminary budget and budget message to meet the reasonable demands of taxpayers therefor and have them available for distribution not later than six weeks before the beginning of the city's or town's next fiscal year.*<sup>11</sup>

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## Budget message to council

*In every city or town a budget message prepared by or under the direction of the city's or town's chief administrative officer shall be submitted as a part of the preliminary budget to the city's or town's legislative body at least sixty days before the beginning of the city's or town's next fiscal year and shall contain the following:*

- (1) An explanation of the budget document;*
- (2) An outline of the recommended financial policies and programs of the city for the ensuing fiscal year;*
- (3) A statement of the relation of the recommended appropriation to such policies and programs;*
- (4) A statement of the reason for salient changes from the previous year in appropriation and revenue items; and*
- (5) An explanation for any recommended major changes in financial policy.*

*Prior to the final hearing on the budget, the legislative body or a committee thereof, shall schedule hearings on the budget or parts thereof, and may require the presence of department heads to give information regarding estimates and programs.*<sup>12</sup>

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## Mayor's authority to make transfers within any one fund

Transfers between individual appropriations within any one fund may be made during the current fiscal year by order of the city's or town's chief administrative officer subject to such regulations, if any, as may be imposed by the city or town legislative body. Notwithstanding the provisions of RCW 43.09.210 or of any statute to the contrary, transfers, as herein authorized, may be made within the same fund regardless of the various offices, departments or divisions of the city or town which may be affected.<sup>13</sup>

<sup>9</sup>RCW 35.23.211, in part

<sup>10</sup>RCW 35.33.011(4)

<sup>11</sup>RCW 35.33.055

<sup>12</sup>RCW 35.33.057

<sup>13</sup>RCW 35.33.121, in part

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## **Council control over appropriations to any one fund**

*The city or town legislative body, upon a finding that it is to the best interests of the city or town to decrease, revoke or recall all or any portion of the total appropriations provided for any one fund, may, by ordinance, approved by the vote of one more than the majority of all members thereof, stating the facts and findings for doing so, decrease, revoke or recall all or any portion of an unexpended fund balance, and by said ordinance, or a subsequent ordinance adopted by a like majority, the moneys thus released may be reappropriated for another purpose or purposes, without limitation to department, division or fund, unless the use of such moneys is otherwise restricted by law, charter, or ordinance.<sup>14</sup>*

*The city or town council must also approve of any emergency expenditures not reasonably foreseen at the time of the filing of the preliminary budget, and such expenditures must be passed by a vote of one more than the majority of all members of the legislative body.<sup>15</sup>*

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## **Selection of mayor pro tem and authority of mayor pro tem**

*The members of the city council, at their first meeting each calendar year and thereafter whenever a vacancy occurs in the office of mayor pro tempore, shall elect from among their number a mayor pro tempore, who shall hold office at the pleasure of the council and in case of the absence of the mayor, perform the duties of mayor except that he or she shall not have the power to appoint or remove any officer or to veto any ordinance. If a vacancy occurs in the office of mayor, the city council shall elect a mayor, who shall serve until a mayor is elected and certified at the next municipal election.*

*The mayor and the mayor pro tempore shall have power to administer oaths and affirmations, take affidavits and certify them. The mayor or the mayor pro tempore when acting as mayor, shall sign all conveyances made by the city and all instruments which require the seal of the city.<sup>16</sup>*

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## **Role of mayor in council-mayor second class city**

The limited role of a mayor in a council-manager second class city is defined in RCW 35.18.200.

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## **Emergency management**

The authority of the mayor to function as the “executive head” in case of emergency or disaster is the same in all cities and towns. See the “Emergency Management” section at the end of this appendix.

<sup>14</sup>RCW 35.33.121, in part

<sup>15</sup>See RCW 35.33.081 and RCW 35.33.091

<sup>16</sup>RCW 35.23.191



# Towns – Mayor’s authority RCW 35.27

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## **Appointment and termination authority**

*The government of a town shall be vested in a mayor and a council consisting of five members and a treasurer, all elective; the mayor shall appoint a clerk and a marshal; and may appoint a town attorney, pound master, street superintendent, a civil engineer, and such police and other subordinate officers and employees as may be provided for by ordinance. All appointive officers and employees shall hold office at the pleasure of the mayor and shall not be subject to confirmation by the town council.*<sup>17</sup>

A significant aspect of this statute is the unqualified power of the mayor to hire and fire all appointees and employees of the town. The town council has no power to confirm mayoral appointments, except mayoral appointments to the town planning commission (see RCW 35.63.020). This differs from the statutes governing a mayor’s appointment power in second class and code cities.<sup>18</sup>

Though the mayor has broad authority to terminate employees, because such action may result in litigation, termination decisions and procedures should be carefully reviewed with the town attorney prior to taking action.

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## **Authority to preside at council meetings, sign warrants and contracts, and administer oaths**

*The mayor shall preside over all meetings of the council at which he or she is present. A mayor pro tempore may be chosen by the council for a specified period of time, not to exceed six months, to act as the mayor in the absence of the mayor. The mayor shall sign all warrants drawn on the treasurer and shall sign all written contracts entered into by the town. The mayor may administer oaths and affirmations, and take affidavits and certify them. The mayor shall sign all conveyances made by the town and all instruments which require the seal of the town.*

*The mayor is authorized to acknowledge the execution of all instruments executed by the town which require acknowledgment.*<sup>19</sup>

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## **Authority over police**

*The department of police in a town shall be under the direction and control of the marshal subject to the direction of the mayor.*<sup>20</sup>

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## **Authority to call special meetings of town council**

*Special meetings may be called at any time by the mayor or a majority of the councilmembers, by written notice as provided in RCW 42.30.080.*<sup>21</sup>

An overlapping statute on this issue is found in the Open Public Meetings Act:

*A special meeting may be called at any time by the presiding officer of the governing body of a public agency or by a majority of the members of the governing body by delivering personally or by mail written notice to each member of the governing body ...*<sup>22</sup>

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## **Authority to preside at council meetings and break tie votes**

*The mayor shall preside at all meetings of the council. The mayor shall have a vote only in case of a tie in the votes of the councilmember. In the absence of the mayor the council may appoint a president pro tempore; in the absence of the clerk, the mayor or president pro tempore, shall appoint one of the councilmembers as clerk pro tempore.*<sup>23</sup>

Note that a mayor’s vote cannot be used to break a tie vote on passage of any resolution or order for the payment of money or for the passage of an ordinance or resolution granting a franchise (RCW 35.27.270, RCW 35.27.330).

<sup>17</sup>RCW 35.27.070, in part

<sup>18</sup>See RCW 35.23.021 and RCW 35A.12.090

<sup>19</sup>RCW 35.27.160

<sup>20</sup>RCW 35.27.240

<sup>21</sup>RCW 35.27.270

<sup>22</sup>RCW 42.30.080

<sup>23</sup>RCW 35.27.280

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### **Requirement that mayor sign ordinances – no veto power**

*Every ordinance shall be signed by the mayor and attested by the clerk.*<sup>24</sup>

Note that the mayor in a town does not have authority to veto ordinances passed by the town council. The mayor is required to sign all ordinances passed by the council, even those with which he disagrees. The signing of ordinances by the mayor is a ministerial act.

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### **Budget responsibilities**

The budget responsibilities of a town mayor are the same as those for the mayor in a second class city. Refer to above section on second class cities.

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### **Selection and authority of mayor pro tem**

A mayor pro tempore may be chosen by the council for a specified period of time, not to exceed six months, to act as the mayor in the absence of the mayor.<sup>25</sup>

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### **Emergency management**

The authority of the mayor to function as the “executive head” in case of emergency or disaster is the same in all cities and towns. See the “Emergency Management” section at the end of this appendix.

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### **Powers of the council**

The specific powers of the town council are listed in RCW 35.27.370 and in the subsequent statutes of RCW 35.27. As mentioned above in regard to second class cities, the mayor and the individuals appointed and hired by the mayor are responsible for carrying out the policies adopted by the council.

<sup>24</sup>RCW 35.27.290

<sup>25</sup>RCW 35.27.160

# Mayor-council code cities – Mayor’s authority

## RCW 35A.12

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### **Residency requirement for mayor and councilmembers**

*No person shall be eligible to hold elective office under the mayor council plan unless the person is a registered voter of the city at the time of filing his declaration of candidacy and has been a resident of the city for a period of at least one year next preceding his election. Residence and voting within the limits of any territory which has been included in, annexed to, or consolidated with such city is construed to have been residence within the city.<sup>26</sup>*

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### **Prohibition on holding any other office or employment**

*A mayor or councilman shall hold within the city government no other public office or employment except as permitted under the provisions of RCW 42.23.<sup>27</sup>*

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### **Oath of office**

*The mayor and councilmembers shall qualify by taking an oath or affirmation of office and as may be provided by law, charter, or ordinance.<sup>28</sup>*

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### **Filling vacancy in office of mayor or councilmember**

*The office of a mayor or councilmember shall become vacant if the person who is elected or appointed to that position fails to qualify as provided by law, fails to enter upon the duties of that office at the time fixed by law without a justifiable reason, or as provided in RCW 35A.12.060 or 42.12.010. A vacancy in the office of mayor or in the council shall be filled as provided in RCW 42.12.<sup>29</sup>*

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### **Appointment and termination authority**

*The mayor shall have the power of appointment and removal of all appointive officers and employees subject to any applicable law, rule, or regulation relating to civil service. The head of a department or office of the city government may be authorized by the mayor to appoint and remove subordinates in such department or office, subject to any applicable civil service provisions. All appointments of city officers and employees shall be made on the basis of ability and training or experience of the appointees in the duties they are to perform, from among persons having such qualifications as may be prescribed by ordinance or by charter, and in compliance with provisions of any merit system applicable to such city. Confirmation by the city council of appointments of officers and employees shall be required only when the city charter, or the council by ordinance, provides for confirmation of such appointments. Confirmation of mayoral appointments by the council may be required by the council in any instance where qualifications for the office or position have not been established by ordinance or charter provision. Appointive offices shall be without definite term unless a term is established for such office by law, charter or ordinance.<sup>30</sup>*

The above-quoted statute gives to mayors in mayor-council code cities sole authority to terminate city appointive officers and employees (subject to any applicable civil service rule or subject to any other specific statute). The statute does, however, allow the city council to provide for confirmation of mayoral appointments if the council has not previously established specific qualifications for the position through passage of an ordinance. If the council has established qualifications for a particular position, then those qualifications act as a limitation of the mayoral appointment authority. Note that in order to take advantage of this statutory authority, the council must first pass an ordinance providing for such confirmation powers.

Though the mayor has broad authority to terminate employees, because such action may result in litigation, termination decisions and procedures should be carefully reviewed with the city attorney prior to taking action.

<sup>26</sup>RCW 35A.12.030, in part

<sup>27</sup>RCW 35A.12.030, in part

<sup>28</sup>RCW 35A.12.040, in part

<sup>29</sup>RCW 35A.12.050

<sup>30</sup>RCW 35A.12.090

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## **General administrative authority**

*The mayor shall be the chief executive and administrative officer of the city, in charge of all departments and employees, with authority to designate assistants and department heads. The mayor may appoint and remove a chief administrative officer or assistant administrative officer, if so provided by ordinance or charter. He shall see that all laws and ordinances are faithfully enforced and that law and order is maintained in the city, and shall have general supervision of the administration of city government and all city interests.<sup>31</sup>*

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## **Approval of official bonds, contract enforcement, instituting litigation**

*All official bonds and bonds of contractors with the city shall be submitted to the mayor or such person as he may designate for approval or disapproval. He shall see that all contracts and agreements made with the city or for its use and benefit are faithfully kept and performed, and to this end he may cause any legal proceedings to be instituted and prosecuted in the name of the city, subject to approval by majority vote of all members of the council.<sup>32</sup>*

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## **Presiding at council meetings, casting tie-breaking votes, reports to council, preparation of proposed budget, veto power**

*The mayor shall preside over all meetings of the city council, when present, but shall have a vote only in the case of a tie in the votes of the councilmember with respect to matters other than the passage of any ordinance, grant, or revocation of franchise or license, or any resolution for the payment of money. He shall report to the council concerning the affairs of the city and its financial and other needs, and shall make recommendations for council consideration and action. He shall prepare and submit to the council a proposed budget, as required by RCW 35A.33. The mayor shall have the power to veto ordinances passed by the council and submitted to him as provided in RCW 35A.12.130 but such veto may be overridden by the vote of a majority of all councilmembers plus one more vote.<sup>33</sup>*

The tie-breaking power of the mayor has generated confusion, partly because of the phrase “a tie in the votes of the councilmember with respect to matters other than the passage of any ordinance, grant, or revocation of franchise or license, or any resolution for the payment of money.” Clearly the mayor cannot break a tie vote on an ordinance; nor can the mayor break a tie vote on the granting or revoking of a franchise or license.

MRSC has interpreted the phrase “resolution for the payment of money” quite narrowly, limiting it to resolutions such as those approving the payment of vouchers or other city claims. That narrow interpretation means that the mayor can cast the tie-breaking vote on a resolution concerning matters such as whether to proceed with a specific public works project, which will at a later date result in the expenditure of city funds. There are no state appellate court cases or Attorney General opinions which provide guidance on this issue.

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## **Ceremonial role**

*The mayor shall be the official and ceremonial head of the city and shall represent the city on ceremonial occasions, except that when illness or other duties prevent the mayor’s attendance at an official function and no mayor pro tempore has been appointed by the council, a member of the council or some other suitable person may be designated by the mayor to represent the city on such occasion.<sup>34</sup>*

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## **Authority to call special meetings of city council**

*Special meetings may be called by the mayor or a majority of the council by written notice delivered to each member of the council at least twenty-four hours before the time specified for the proposed meeting.<sup>35</sup>*

Mayoral authority to call a special meeting is also provided by one of the statutes in the Open Public Meetings Act: *A special meeting may be called at any time by the presiding officer of the governing body of a public agency or by a majority of the members of the governing body by delivering personally or by mail written notice to each member of the governing body...<sup>36</sup>*

<sup>31</sup>RCW 35A.12.100

<sup>32</sup>RCW 35A.12.100, in part

<sup>33</sup>RCW 35A.12.100, in part

<sup>34</sup>RCW 35A.12.100, in part

<sup>35</sup>RCW 35A.12.110

<sup>36</sup>RCW 42.30.080, in part

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## Preparation of preliminary budget

RCW 35A.33 sets out the responsibilities of the mayor in a code city in regard to budgeting. By definition, the term “chief administrative officer” as used in the budget statutes refers to the mayor in a code city operating under the mayor-council form of government:

*“Chief administrative officer” as used in this chapter includes the mayor of cities having a mayor council form of government, the commissioners in cities having a commission form of government, the city manager, or any other city official designated by the charter or ordinances of such city under the plan of government governing the same, or the budget or finance officer designated by the mayor, manager or commissioners, to perform the functions, or portions thereof, contemplated by this chapter.<sup>37</sup>*

The chief administrative officer (mayor) is required to prepare the preliminary budget in detail and submit it by a certain date.

*The chief administrative officer shall prepare the preliminary budget in detail, making any revisions or addition to the reports of the department heads deemed advisable by such chief administrative officer and at least sixty days before the beginning of the city's next fiscal year he shall file it with the city clerk as the recommendation of the chief administrative officer for the final budget. The clerk shall provide a sufficient number of copies of such preliminary budget and budget message to meet the reasonable demands of taxpayers therefor and have them available for distribution not later than six weeks before the beginning of the city's next fiscal year.<sup>38</sup>*

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## Budget message to council

*In every code city, a budget message prepared by or under the direction of the city's chief administrative officer shall be submitted as a part of the preliminary budget to the city's legislative body at least sixty days before the beginning of the city's next fiscal year and shall contain the following:*

- (1) An explanation of the budget document;*
- (2) An outline of the recommended financial policies and programs of the city for the ensuing fiscal year;*
- (3) A statement of the relation of the recommended appropriation to such policies and programs;*
- (4) A statement of the reason for salient changes from the previous year in appropriation and revenue items; and*
- (5) An explanation for any recommended major changes in financial policy.*

*Prior to the final hearing on the budget, the legislative body or a committee thereof, shall schedule hearings on the budget or parts thereof, and may require the presence of department heads to give information regarding estimates and programs.<sup>39</sup>*

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## Expenditure limitations

*The expenditures as classified and itemized in the final budget shall constitute the city's appropriations for the ensuing fiscal year. Unless otherwise ordered by a court of competent jurisdiction, and subject to further limitations imposed by ordinance of the code city, the expenditure of city funds or the incurring of current liabilities on behalf of the city shall be limited to the following:*

- (1) The total amount appropriated for each fund in the budget for the current fiscal year, without regard to the individual items contained therein, except that this limitation shall not apply to wage adjustments authorized by RCW 35A.33.105; and*
- (2) The unexpended appropriation balances of a preceding budget which may be carried forward from prior fiscal years pursuant to RCW 35A.33.150; and*
- (3) Funds received from the sale of bonds or warrants which have been duly authorized according to law; and*
- (4) Funds received in excess of estimated revenues during the current fiscal year, when authorized by an ordinance amending the original budget; and*
- (5) Expenditures required for emergencies, as authorized in RCW 35A.33.080 and 35A.33.090.<sup>40</sup>*

<sup>37</sup>RCW 35A.33.010(4)

<sup>38</sup>RCW 35A.33.052

<sup>39</sup>RCW 35A.33.055

<sup>40</sup>RCW 35A.33.120, in part

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## **Transfers between individual appropriations within any one fund**

*Transfers between individual appropriations within any one fund may be made during the current fiscal year by order of the city's chief administrative officer subject to such regulations, if any, as may be imposed by the city council. Notwithstanding the provisions of RCW 43.09.210 or of any statute to the contrary, transfers, as herein authorized, may be made within the same fund regardless of the various offices, departments or divisions of the city which may be affected.<sup>41</sup>*

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## **Council control over appropriations to any one fund**

*The city council, upon a finding that it is to the best interests of the code city to decrease, revoke or recall all or any portion of the total appropriations provided for any one fund, may, by ordinance, approved by the vote of one more than the majority of all members thereof, stating the facts and findings for doing so, decrease, revoke or recall all or any portion of an unexpended fund balance, and by said ordinance, or a subsequent ordinance adopted by a like majority, the moneys thus released may be reappropriated for another purpose or purposes, without limitation to department, division or fund, unless the use of such moneys is otherwise restricted by law, charter, or ordinance.<sup>42</sup>*

*The budget responsibilities for mayors in mayor-council code cities operating under a biennial budget process are similar, but with a different timetable.<sup>43</sup>*

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## **Appointment and authority of mayor pro tem**

*Biennially at the first meeting of a new council, or periodically, the members thereof, by majority vote, may designate one of their number as mayor pro tempore or deputy mayor for such period as the council may specify, to serve in the absence or temporary disability of the mayor; or, in lieu thereof, the council may, as the need may arise, appoint any qualified person to serve as mayor pro tempore in the absence or temporary disability of the mayor. In the event of the extended excused absence or disability of a councilmember, the remaining members by majority vote may appoint a councilmember pro tempore to serve during the absence or disability.<sup>44</sup>*

Note that unlike RCW 35.23.191, which defines the role of a mayor pro tem in a second class mayor-council city, RCW 35A.12.065 does not specifically limit the power of the mayor pro tem to appoint or remove officers, or to veto ordinances. This has led to some confusion concerning the powers of a mayor pro tem in a code city, and several code cities have passed ordinances specifically limiting the power of a mayor pro tem to appoint and remove officers or to veto ordinances.

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## **Emergency management**

The authority of the mayor to function as the "executive head" in case of emergency or disaster is the same in all cities and towns. See the "Emergency Management" section at the end of this appendix.

<sup>41</sup>RCW 35A.33.120, in part

<sup>42</sup>RCW 35A.33.120, in part

<sup>43</sup>See RCW 35A.34.080 and RCW 35A.34.090

<sup>44</sup>RCW 35A.12.065

# Emergency management – all cities & towns

In mayor-council cities and towns the mayor is the “executive head” who is authorized to take charge when there is an emergency or disaster; in council-manager cities, the city manager is the executive head.<sup>45</sup> All cities are directed to establish a local organization for emergency management and adopt an emergency management plan which is certified as being consistent with the state emergency management plan.<sup>46</sup> Chapter 118 in the Washington Administrative Code (WAC) contains the rules adopted by the State Division of Emergency Management which apply to all municipalities. Because each city and town has its own unique situation, emergency plans vary considerably. While some cities have chosen to establish emergency management director positions and have delegated extensive authority to those individuals, many smaller cities have chosen to coordinate their plan with the county and rely heavily upon the county for assistance in the event of an emergency.

## **Emergency management ordinance/resolution.**

*Each political subdivision must establish an emergency management organization by ordinance or resolution passed by the legislative body of the political subdivision. Two or more political subdivisions may join in the establishment of an emergency management organization.*

- (1) Each political subdivision must establish said organization by ordinance or resolution.*
- (2) Each political subdivision shall specify in the ordinance or resolution establishing the organization, how the costs of supporting the organization shall be shared between the constituent political subdivision.*
- (3) If two or more political subdivisions cannot agree on the sharing of costs to support the emergency management organization established by the constituent political subdivisions, the director shall refer the matter to the council. The council shall consider the matter at either a regular or special meeting. The council may request additional information from the constituent political subdivisions, the director, or other interested party(s). The council shall arbitrate the matter, and its decision shall be final.*

- (4) When two or more political subdivisions submit ordinances or resolutions establishing a single emergency management organization which meets the criteria set forth, the director shall inform the executive heads of the constituent political subdivisions that the emergency management organization is acceptable and authorized. Nothing in this code shall prevent one or more political subdivisions from contracting with another subdivision for emergency management activities under the provisions of chapter 39.34 RCW, the Interlocal Cooperation Act.*
- (5) Each political subdivision must specify in the ordinance or resolution establishing the emergency management organization, that the agency shall be headed by a director of emergency management who shall be appointed by and directly responsible to the executive head of the political subdivision.*
- (6) In the case of an emergency management organization established by two or more political subdivisions, such political subdivisions shall specify in the ordinance or resolution establishing the organization, that the local government agency shall be headed by a local director of emergency management who shall be appointed by the joint action of the executive heads of the constituent political subdivisions. The political subdivisions shall specify by ordinance or resolution that the emergency management director shall be directly responsible to the executive authority of the constituent political subdivisions.*
- (7) Each political subdivision shall specify by ordinance or resolution that the local director of emergency management shall be directly responsible for the organization, administration, and operation of the emergency management organizations.*
- (8) Each political subdivision shall submit a copy of the ordinance or resolution establishing its emergency management organization to the director for evaluation and approval of the organizational plan or structure.*
- (9) Such ordinance or resolution shall constitute an approved organization for the purposes of RCW 38.52.195 and 38.52.260(2). Use of emergency workers is governed by chapter 118-04 WAC.<sup>47</sup>*

<sup>45</sup>RCW 38.52.010(9) and WAC 118.30.030(5)

<sup>46</sup>RCW 38.52.070(1)

<sup>47</sup>WAC 118.30.050

Read your city's or town's emergency management plan thoroughly. If you have questions concerning your role and authority, review the plan with your city or town attorney. If you feel that changes should be made, review proposed amendments with your council.

The state legislature has granted broad authority to cities and towns to take all necessary action to deal with a disaster:

*(2) In carrying out the provisions of this chapter each political subdivision, in which any disaster as described in RCW 38.52.020 occurs, shall have the power to enter into contracts and incur obligations necessary to combat such disaster, protecting the health and safety of persons and property, and providing emergency assistance to the victims of such disaster. Each political subdivision is authorized to exercise the powers vested under this section in the light of the exigencies of an extreme emergency situation without regard to time consuming procedures and formalities prescribed by law (excepting mandatory constitutional requirements), including, but not limited to, budget law limitations, requirements of competitive bidding and publication of notices, provisions pertaining to the performance of public work, entering into contracts, the incurring of obligations, the employment of temporary workers, the rental of equipment, the purchase of supplies and materials, the levying of taxes, and the appropriation and expenditures of public funds.<sup>48</sup>*

<sup>48</sup>RCW 38.52.070(2)





## Voting & vetoes – A guide for mayors

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### Quorum

The general rule governing the transaction of council business is that a majority of councilmembers must be present at the meeting to constitute a quorum. This means four members of a seven-member council and three members of a five-member council.

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### The mayor's authority to vote

#### Charter

In charter cities, each city charter governs the voting powers of the mayor.

#### Mayor-council

Under the mayor-council form of government, the mayor may vote only in case of a tie vote of the council. However, statutes for each class of city may further limit the mayor's tie-breaking authority, as follows:

- **Second class cities.** Because at least four councilmember votes are required for the passage of any ordinance, resolution, or order (RCW 35.23.211), the mayor cannot break a tie vote on those matters.
- **Towns.** At least three councilmembers must vote for passage of any resolution or order for the payment of money (RCW 35.27.270) or for the passage of an ordinance or resolution granting a franchise (RCW 35.27.330). Thus, the mayor's vote cannot be used to break a tie vote on these issues.
- **Code cities.** A majority of the entire membership of the council is required to vote for passage of any ordinance, grant, revocation of franchise or license, or any resolution for the payment of money (RCW 35A.12.120). Therefore, the mayor may not break a tie vote on these matters.

#### Council-manager

In all cities operating under the council-manager form of government, the mayor is eligible to vote in their capacity as councilmember.

### The mayor's veto power

- **Council-manager cities.** The mayor votes as a councilmember and has no veto power.
- **Second class mayor-council cities.** The mayor may veto an ordinance, but the mayor's veto can be overruled by five members of the council (RCW 35.23.211).
- **Towns.** The mayor has no veto power.
- **Mayor-council code cities.** The mayor may veto an ordinance, but the mayor's veto can be overruled by a majority plus one of the entire council membership (RCW 35A.12.100).

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### Abstentions

In the absence of a local statute to the contrary, councilmembers are free to abstain from voting on any issue before the council. Some cities have adopted local rules of procedure allowing abstentions only when the councilmember states their reason for abstaining. Other cities require councilmembers to vote on all matters before the council unless a conflict of interest exists. When a conflict of interest exists, a councilmember should refrain from voting. Generally, however, other councilmembers cannot restrain a councilmember from voting due to a conflict of interest or for any other reason.

The effect of an abstention on a vote is not specified by state law. Municipalities are free to adopt local rules of procedure stating the effect of an abstention. See Appendix 5, Sample City Council Rules of Procedure (Rule 5.4) for an example of a rule which provides that failure to vote when there is no valid disqualification is counted as an affirmative vote on the question. If a city does not have a rule, abstentions by one or more councilmembers may make it impossible for final action to be taken on a matter, particularly where a majority vote of the full council is needed.

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### Voting by proxy

It is a fundamental rule of parliamentary law that the right to vote is limited to those members actually present at the time a vote is taken at a legal meeting. State law is silent as to proxy voting by councilmembers. As a general rule, proxy votes are not permitted. If the city or town has not adopted a rule of procedure to the contrary, councilmembers must be present at the time the vote is taken. There is no Washington court case law on this issue. Remote participation at a meeting is a legal alternative.

## Questions & answers

**Q. If there is a quorum at the start of a council meeting but one of the councilmembers gets ill and has to leave, eliminating the quorum, can the meeting continue?**

**A.** No. The council meeting must either be closed or adjourned to a stated date and time.

**Q. Who, if anyone, can make a motion to reconsider where a matter was defeated by a tie vote?**

**A.** Under Robert's Rules, §36, anyone on the prevailing (winning) side of a vote can make a motion to reconsider, and the prevailing side need not be a majority, such as when a tie vote functions to defeat a matter. In that case, those who voted "no" would be entitled to make the motion to reconsider. (If an ordinance was passed at one meeting, it cannot be reconsidered, although it could, of course, be amended or repealed.)

**Q. Can the mayor make and second motions, and debate issues with the council?**

**A.** In council-manager cities the mayor has the same rights to make motions and debate issues as any other councilmember. There is no statute concerning this issue for mayors in mayor-council cities. The councils in mayor-council cities can adopt rules restricting the authority of the mayor to make or second motions, and require the mayor to turn over the running of the meeting to a councilmember if they wish to vigorously participate in the debate of an issue. (See Appendix 5, Sample City Council Rules of Procedure, Rule 3.6.)

## Public records disclosure

The Public Records Act deals with the public's right to inspect and/or copy public records (RCW 42.56). These state statutes were designed to ensure public confidence in government by allowing full access to information concerning the administration and conduct of government.

The definition of "public record" is quite broad. A public record includes "any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics" (RCW 42.56.010(3)). Papers, photos, maps, videos, and electronic records are all covered by the state law.

As a general rule, all city records are available for review by the public, unless they are specifically exempted or prohibited from disclosure by state law. Because the public records disclosure statutes are sometimes difficult to interpret and are often a source of litigation, MRSC has prepared thorough information on its website and in a publication that reviews all of the relevant statutes, exemptions and prohibitions to disclosure, and procedures to be followed when handling a request for disclosure. (See MRSC's [Public Records Act webpage](#) and the publication *Public Records Act for Washington Cities, Counties, and Special Purpose Districts.*) MRSC and AWC have also produced a [free elearning course on the Public Records Act](#) for city and town councilmembers and mayors. The eLearning course is available to watch on demand on both the AWC website and the MRSC website.

### Frequently asked questions

**Q. How soon must a city respond to a request for public records?**

**A.** State law requires that responses to requests for public records be made "promptly." Specifically, cities must respond within five business days of receiving a request by either (1) providing the record, (2) acknowledging receipt of the record and providing a reasonable estimate of the time in which a response will be made, (3) denying the request, or 4) request clarification of a request, coupled with giving an estimated response time if the request is not clarified. Additional response time beyond five days may be based upon a need to clarify the request, to locate and assemble the records requested, to notify people and agencies affected by the request, or to determine whether any of the requested records are exempt from disclosure (RCW 42.56.520).

**Q. What can a city charge for providing copies of public records?**

**A.** Cities are not allowed to charge for the staff time spent in locating a public record, or for making a record available

for inspection. A city can, however, charge for the actual costs connected with copying public records, including the staff time spent making the copies. A city cannot charge more than fifteen cents a page for photocopying unless the city has calculated its actual costs per page and determined that they are greater than fifteen cents. Actual costs for postage and delivery can be included, as well as the cost of any envelopes. If a city has to pay an outside source for making duplicates of records such as photographs, blueprints or tape recordings, the city can also pass those costs on to the requestor (RCW 42.56.070(7) and RCW 42.36.120).

Additionally, cities are expressly authorized to charge for copying and producing electronic records. A city can charge actual costs incurred for providing electronic copies, including costs related to production, file transfer, storage, and transmission. If a policy establishes that calculating actual costs would be unduly burdensome, then the following default charges may be charged: ten cents/page for records scanned into electronic format,

five cents for every four electronic files or attachments uploaded to an email, cloud storage service, or other electronic delivery system, and ten cents/gigabyte for transmitting records electronically (RCW 42.56.120).

**Q. What constitutes a public record?**

**A.** The state statutes broadly define public records. "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics" (RCW 42.56.010).

The term "writing" encompasses a wide range of communication forms or representation. Writing includes, but is not limited to, any form of letters, words, pictures, sounds, or symbols and all papers, maps, tapes, films, prints, motion picture, film, and video recordings (RCW 42.56.010).

Some records held by volunteers are excluded from the definition, if the volunteers meet certain stated

conditions (they do not serve in an administrative capacity; have not been appointed by the city to an agency board, commission, or internship; and do not have a supervisory role or delegated agency authority.)

**Q. Does a councilmember or mayor have greater access to public records than the public?**

**A.** As a general rule, a councilmember or mayor does have greater access to public records than the public. However, a councilmember's or mayor's access should relate to the duties of that office.

**Q. What public records are exempt from disclosure?**

**A.** Public records exemptions from public disclosure are contained primarily in RCW 42.56.210-42.56.640. Reference must be made to these statutes to determine on a case-by-case basis whether a particular record is exempt.

**Q. Are employment applications exempt from disclosure?**

**A.** Yes, such applications are exempt from disclosure, including the names of applicants, resumes, and other material related to the applications (RCW 42.56.250). Although the statutory exemption does not specifically refer to applications for public appointive office, its legislative history indicates that it was intended to also apply to applicants for offices, such as the office of city manager or city clerk.

**Q. Is personal information contained in employee personnel files exempt from disclosure?**

**A.** Some information in employee personnel files is exempt, but not all. RCW 42.56.230 exempts records in an employee's personnel file "to the extent disclosure would violate [the employee's] right to privacy." What constitutes a violation of a person's right

to privacy is defined by statute to mean the disclosure of information that would be (1) "highly offensive to a reasonable person" and (2) "not of legitimate concern to the public" (RCW 42.56.050). This is a stringent test, and not all records found in personnel files would meet this test. Consult your attorney for further guidance.

**Q. Must a city disclose records which reveal the salary and benefits that a particular employee or official receives?**

**A.** Yes. There is no disclosure exemption that applies to such records.

**Q. Must a city disclose utility billing records?**

**A.** Yes, except for billing information in increments less than a billing cycle. No other exemption applies. However, the city should not disclose the residential addresses, telephone numbers, or additional contact information and permit meter data of utility customers that may be contained in such records (RCW 42.56.330).

**Q. Must the city track the public records requests it receives?**

**A.** Yes. Cities are required to maintain a log that identifies the requestor (if provided), the date and text of request, a description of records produced in response to request, a description of records redacted or withheld and the reasons for redaction/withholding, and the date of final disposition of the request.

**Q. Must a city respond to a request for "all records"?**

**A.** A city may deny a request for all or substantially all records not relating to a particular topic. Additionally, a city can also deny automatically generated (bot) requests received from the same requestor within a 24-hour period, if the requests cause excessive interference

with the other essential functions.

**Q. Must a city provide public records if they are being requested for commercial purposes?**

**A.** In addition to the statutory exemptions from disclosure that a city must consider in responding to a particular request, a city is prohibited from providing or giving access to "lists of individuals" if requested for commercial purposes (RCW 42.56.070). The Attorney General's Office has interpreted this provision to refer only to lists of natural persons, rather than, for example, to lists of businesses. Public records other than "lists of individuals" requested for commercial purposes should be provided upon request if they are not statutorily exempt from disclosure.

**Q. Are emails on city business sent from a personal email account of an elected or appointed city official subject to disclosure under the Public Records Act?**

**A.** Yes, as a general rule, emails that pertain to city business that are sent by city appointed or elected officials are public records subject to disclosure under the PRA even if they are sent from the private email account of the official. That is because the term public record includes any email that relates to the conduct of government or performance of any governmental or proprietary function sent by a city official or employee, even if that email is sent from their private email account. It is subject to disclosure unless protected by one of the exemptions in the PRA itself. In addition, text messages and voicemails on a personal device that are related to city business are also likely a public record subject to disclosure.

# Open Public Meetings Act

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## General rule

The general rule for open public meetings, with only a few minor exceptions, is that all meetings of the governing bodies of public agencies are to be open and accessible to the public. Not only must ordinances and rules be adopted at public meetings in order to be valid, but deliberations must be conducted openly, and all members of the public must be allowed to attend (RCW 42.30, Open Public Meetings Act).

A summary of open public meeting requirements is provided here. For a more complete discussion, review the MRSC publication, *The Open Public Meetings Act: How it Applies to Cities, Counties and Special Purpose Districts*.

## What meetings are covered?

The Open Public Meetings Act applies to nearly all meetings of public agency governing bodies, including cities. This includes regular and special meetings of all multi-member governing bodies and subagencies (city councils, planning commissions, library or park boards, etc.). The Act applies to the meetings of committees, subcommittees, and other groups created by a governing body pursuant to its executive authority when they act on behalf of the governing body, conduct hearings, or take public testimony, whether the committee is composed of members of the governing body or not (*Citizens Alliance v. San Juan County* (2015)). Because the Act is to be liberally construed, meaning that courts will lean towards including borderline meetings, the Act should be assumed to apply unless the meeting is of a type specifically excluded by statute.

The fact that a meeting is called a workshop, study session, or retreat does not mean it may be automatically closed to the public.

## What meetings are not covered?

Several types of local government meetings are not covered under the Open Public Meetings Act:

- Quasi-judicial proceedings are excluded, where the decision being made affects only individual rights and not the general public.
- Committee meetings are excluded when the committee does not exercise actual or implied decision-making power, unless the meeting is comprised of a majority of the members of a governing body. The Attorney General's office and the Washington Supreme Court have taken the position that a committee does not fall into this category when its powers are only advisory.

- Social gatherings are excluded, as long as the attendees do not take any official action or discuss the business of the governing body.
- Certain proceedings for licensing and disciplinary action and meetings for formulating collective bargaining strategies are excluded.

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## Executive sessions (RCW 42.30.110)

Executive sessions are portions of regular or special meetings that may be closed to the public. Only specific issues may be considered, where public disclosure would harm individual interests or legitimate interests of the governing body. An executive session may be held in the following cases:

- To consider the selection of a site or the acquisition of real estate when public knowledge would cause likelihood of increased price;
- To consider the minimum price at which real estate will be offered for sale or lease when public knowledge would cause a likelihood of decreased price;
- To receive and evaluate complaints or charges brought against a public officer or employee. Note however, upon the request of the officer or employee, a public hearing or meeting open to the public must be conducted upon the complaint;
- To evaluate the qualifications of an applicant for public employment or to review the performance of a public employee;
- To evaluate the qualifications of a candidate for appointment to elective office, such as when filling a councilmanic vacancy. However, the interview of the candidate and final action must be in an open meeting;
- To discuss with legal counsel representing the agency, matters relating to agency enforcement actions, or litigation or potential litigation to which the agency is a party.

An executive session may be held during any regular or special meeting. Before convening the executive session, the presiding officer is to publicly announce the purpose for excluding the public and the time when the executive session will be concluded.

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## Requirements for notice of meetings

The public must be informed of the time and place of meetings, both “regular” meetings and “special” meetings, except in emergencies.

- Regular meetings are recurring meetings with a time and place fixed by ordinance or rule. “Workshop” meetings of the council, if routinely held at a time and place set by ordinance, are still “regular” meetings and are subject to the Open Public Meetings Act.
- Special meetings, called by the presiding officer or a majority of the members of the governing body, must be announced in writing to all members of the governing body and members of the news media who have requested notice (RCW 42.30.080). Special meeting notices must be delivered personally or by mail, fax, or electronic mail 24 hours in advance and posted on a website and prominently displayed, specifying the time and place of the meeting and the business to be transacted. Only business described in the special meeting notice can be decided, although other business can be discussed. Many cities provide notice to the public when special meetings

are called if there is enough time. For instance, some cities post notice of special meetings at several places in the city, and some cities publish notice in the local newspaper.

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## Conclusion

The requirements of the Open Public Meetings Act are pervasive and relatively inflexible. In deciding to hold an executive session or a closed meeting, local officials should be prepared to justify the decision under a specific exemption. Officials should be alert to situations where the Open Public Meetings Act could be inadvertently violated, such as social settings, public hearings, and council retreats and workshops.

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## Additional resources

*The Open Public Meetings Act, How it Applies to Washington Cities, Counties, and Special Purpose Districts*, MRSC

MRSC and AWC’s [free elearning course on the Open Public Meetings Act](#) for city and town councilmembers and mayors. The eLearning course is available on demand on both the AWC website and the MRSC website.

MRSC’s [Open Public Meetings Act webpage](#)

## Frequently asked questions

### **Q. What can be done if a meeting becomes disorderly?**

**A.** The mayor should instruct audience members on rules of courtesy; if rules are not followed, the speaker may lose the right to speak at the meeting or even be ejected for disorderly conduct. The meeting may be adjourned temporarily or moved to another location if order cannot be restored by removal of the disorderly individuals.

### **Q. What if a majority of the city council get together for coffee every week at the local coffee shop? Is that considered a public meeting?**

**A.** No, not unless city business is discussed. Use extreme caution though; if a majority of the council is seen together, the public may assume that city business is the topic and allege a violation has occurred.

### **Q. What happens if the Open Public Meetings Act is violated?**

**A.** There are several potential consequences for violating the procedural requirements of the Open Public Meetings Act. Most importantly, actions taken in meetings that violate the Act are null and void, including the passing of ordinances and resolutions. In addition, knowing attendance by a member at an improperly held meeting is punishable by a civil fine of \$500 for the first violation and \$1,000 for subsequent violations. The party that prevails in an action for violation of the Act may recover reasonable expenses and attorneys’ fees under certain circumstances.

### **Q. If a majority of the city council are included on an email related to city business, is the Open Public Meetings Act violated?**

**A.** Yes, there likely is a violation of the OPMA if a quorum of the city council exchange emails in which they discuss public business. However, if one member emails the other members to share relevant information but there is no exchange of information, then likely there is no OPMA violation. In other words, if there is just passive receipt of the email, there has been no meeting. It is the exchange of emails or dialogue between the councilmembers that triggers the likelihood of an OPMA violation.

# Public hearings

The principal difference between council meetings and public hearings is their purpose and the public participation requirement. The two types of proceedings may seem similar to an outsider, but council meetings are conducted primarily to make decisions, while public hearings are held to gather the data and opinions from the public that facilitate the decision-makers at the council meeting.

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## What is the difference between a public meeting and a public hearing?

In Washington, all meetings of governmental bodies at which decisions are made are public meetings, under the Open Public Meetings Act. At a public meeting, anyone may attend the meeting and observe.

A governmental body may permit public participation; however, there is no right of the public neither to participate in the course of a public meeting nor to comment on the subject matter being considered by the governmental body. In contrast, during a public hearing, the public is invited to speak to the council and the council primarily listens and receives public input. No decisions are made during a public hearing.

A public hearing may be held as part of a regularly scheduled public meeting, but the two phases are conducted separately.

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## When is a public hearing required?

There are relatively few situations that actually require a public hearing, although there are many occasions when public hearings may be advisable. The most typical circumstances requiring public hearings are listed below.

### Annexation proceedings

- Direct petition method of annexation

### Budget process

- Following preliminary budget filing
- Emergency expenditures

### Planning and zoning

- Adoption or amendment of a comprehensive plan
- Adoption or amendment of a zoning code

### Street vacations

### Local improvement districts

- Creation of a local improvement district
- Development of the assessment role
- Assessment of an omitted property

### Arterial street construction

### Sale of public utility property

### Creation of a parking and business improvement area

### Approval of preliminary plats

### Removal of city manager (if requested)

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## What is the required notice for public hearings?

For some types of public hearings, there are specific statutory provisions containing notice requirements. Many of the public hearing statutes listed above include notice requirements. Where no specific statutory standards regarding notice are provided, each city must establish a procedure for notifying the public of upcoming hearings. The procedures may include written notification to the city's official newspaper, publication of a notice in the official newspaper, and such other processes as the city determines will satisfy the notice requirement.

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## What rules govern a public hearing?

The governing body holding the public hearing may establish rules of procedure for its conduct. These rules may include limiting the time allowed for public presentations, as long as they are reasonable and fair. At the commencement of the hearing, the rules that will govern should be explained. The same quorum rules for public meetings apply to public hearings: a quorum of the decision-making body is required for the transaction of business.





# Sample city council rules of procedure for mayor-council code cities

MRSC has on file numerous examples of council rules of procedures from both mayor-council and council-manager cities. This sample is not a “model” which we are recommending. We suggest that you review the rules printed here as well as other examples. Some cities have more detailed rules. You can review and download additional sets of rules of procedure through the MRSC web site, or contact the MRSC library to borrow additional sample rules.

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## City council rules of procedure

### 1. General rules

- 1.1 Meetings to be public:** All official meetings of the council shall be open to the public with the exception of executive sessions for certain limited topics (as defined in RCW 42.30) and closed sessions authorized by RCW 42.30.140. The journal of proceedings (minute book) shall be open to public inspection.
- 1.2 Quorum:** Four councilmembers shall be in attendance to constitute a quorum and be necessary for the transaction of business. If a quorum is not present, those in attendance will be named and they shall adjourn to a later time, but no adjournment shall be for a longer period than until the next regular meeting.
- 1.3 Attendance, excused absences:** RCW 35A.12.060 provides that a councilmember shall forfeit his/her office by failing to attend three (3) consecutive regular meetings of the council without being excused by the council. Members of the council may be so excused by complying with this section. The member shall contact the chair prior to the meeting and state the reason for his/her inability to attend the meeting. If the member is unable to contact the chair, the member shall contact the city clerk or deputy city clerk, who shall convey the message to the chair. The chair shall inform the council of the member's absence, state the reason for such absence and inquire if there is a motion to excuse the member. Upon passage of such motion by a majority of members present, the absent member shall be considered excused and the recorder will make an appropriate notation in the minutes. If the motion is not passed, the recorder will note in the minutes that

the absence is unexcused.

- 1.4 Journal of proceedings:** A journal of all proceedings of the council shall be kept by the city clerk and shall be entered in a book constituting the official record of the council.
- 1.5 Right of floor:** Any member desiring to speak shall be recognized by the chair and shall confine his/her remarks to one subject under consideration or to be considered.
- 1.6 Rules of order:** Robert's Rules of Order Newly Revised shall be the guideline procedures for the proceedings of the council. If there is a conflict, these rules shall apply.

### 2. Types of meetings

- 2.1 Regular council meetings:** The council shall meet on the \_\_\_ of each month at 7 pm. When a council meeting falls on a holiday, the council may determine an alternate day for the meeting or cancel the meeting. The council may reschedule regular meetings to a different date or time by motion. The location of the meetings shall be the council chambers at city hall, unless specified otherwise by a majority vote of the council. All regular and special meetings shall be public.
- 2.2 Special meetings:** Special meetings may be called by the mayor or any four (4) members of the council. The city clerk shall prepare a notice of the special meeting stating the time, place and business to be transacted. The city clerk shall attempt to notify each member of the council, either by telephone or otherwise, of the special meeting. The city clerk shall give at least 24 hours' notice of the special meeting to each local newspaper of general circulation and to each local radio and/or television station which has filed with the clerk a written request to be notified of special meetings. No subjects other than those specified in the notice shall be considered. The council may not make final disposition on any matter not mentioned in the notice.

Special meetings may be called in less than 24 hours, and without the notice required in this section, to deal with emergencies involving injury or damage to persons or property or the likelihood of such injury or damage if the notice requirements would be impractical or increase the likelihood of such injury or damage.

**2.3 Continued and adjourned sessions:** Any session of the council may be continued or adjourned from day to day, or for more than one day, but no adjournment shall be for a longer period than until the next regular meeting.

**2.4 Study sessions and workshops:** The council may meet informally in study sessions and workshops (open to the public), at the call of the mayor or of any three or more members of the council, to review forthcoming programs of the city, receive progress reports on current programs or projects, receive other similar information from city department heads or conduct procedures workshops, provided that all discussions and conclusions thereon shall be informal and do not constitute official actions of the council. Study sessions and workshops held by the council are "special meetings" of the council, and the notice required by RCW 42.30.080 must be provided.

**2.5 Executive sessions:** Executive sessions or closed meetings may be held in accordance with the provisions of the Washington State Open Meetings Act (RCW 42.30). Among the topics that may be discussed are: (1) personnel matters; (2) consideration of acquisition of property for public purposes or sale of city-owned property; and (3) potential or pending litigation in which the city has an interest, as provided in the Revised Code of Washington. The council may hold an executive session during a regular or special meeting. Before convening in executive session the chair shall publicly announce the purpose for excluding the public from the meeting place and the time when the executive session will be concluded. If the council wishes to adjourn at the close of a meeting from executive session, that fact will be announced along with the estimated time for the executive session. The announced time limit for executive sessions may be extended to a stated later time by the announcement of the chair.

**2.6 Attendance of media at council meetings:** All official meetings of the council and its committees shall be open to the media, freely subject to recording by radio, television and photographic services at any time, provided that such arrangements do not interfere with the orderly conduct of the meetings.

### **3. Chair and duties**

**3.1 Chair:** The mayor, if present, shall preside as chair at all meetings of the council. In the absence of the mayor, the mayor pro tem shall preside. In the absence of both the mayor and mayor pro tem, the council shall elect a chair.

**3.2 Call to order:** The meetings of the council shall be called to order by the mayor or, in his absence, by the mayor pro tem. In the absence of both the mayor and mayor pro tem, the meeting shall be called to order by the city clerk or Clerk's designee for the election of a temporary chair.

**3.3 Preservation of order:** The chair shall preserve order and decorum, prevent attacks on personalities or the impugning of members' motives and confine members in debate to the question under discussion.

**3.4 Points of order:** The chair shall determine all points of order, subject to the right of any member to appeal to the council. If any appeal is taken, the question shall be "Shall the decision of the chair be sustained?"

**3.5 Questions to be stated:** The chair shall state all questions submitted for a vote and announce the result. A roll call vote shall be taken upon all questions.

**3.6 Mayor – powers:** The mayor may not make or second motions, but may participate in debate to the extent that such debate does not interfere with chairing the meeting. If the mayor wishes to participate vigorously in the debate of an issue, the mayor shall turn over chairing of that portion of the meeting to the mayor pro tem, or to another councilmember if the mayor pro tem is absent. The mayor's voting rights and veto power are as specified in RCW 35A.12.100.

#### 4. Order of business and agenda

**4.1 Order of business:** The order of business for all regular meetings shall be transacted as follows unless the council, by a majority vote of the members present, suspends the rules and changes the order:

- (1) Call to order
- (2) Pledge of allegiance
- (3) Council discussion/agenda review/set time restrictions (See Rules 6.1 and 7.4)
- (4) Comments from city residents
- (5) Consent agenda
- (6) Mayor's reports
- (7) Department head/council committee/board/commission reports
- (8) Other business
- (9) Continued comments from city residents
- (10) Councilmember comments
- (11) Adjournment

The consent agenda may contain items which are of a routine and noncontroversial nature which may include, but are not limited to, the following: meeting minutes, payroll, claims, budget amendments, park use requests and any item previously approved by council with a unanimous vote and which is being submitted to council for final approval. Any item on the consent agenda may be removed and considered separately as an agenda item at the request of any councilmember or any person attending a council meeting.

**4.2 Council agenda:** The mayor shall prepare the agenda for council meetings. Subject to the council's right to amend the agenda, no legislative item shall be voted upon which is not on the council agenda, except in emergency situations (defined as situations which would jeopardize the public's health, safety or welfare).

**4.3 Mayor and councilmember comments and concerns:** The agenda shall provide a time when the mayor ("Mayor's reports") or any councilmember ("Comments from councilmembers") may bring before the council any business that he/she feels should be deliberated upon by the council. These matters need not be specifically listed on the agenda, but formal action on such matters may be deferred until a subsequent council meeting, except that immediate action may be taken upon a vote of a majority of all members of the council. There shall be no lectures, speeches or grandstanding.

#### 5. Consensus and motions

**5.1 Consensus votes:** When a formal motion is not required on a council action or opinion, a consensus voice vote will be taken. The chair will state the action or opinion and each councilmember will state his/her name and vote by saying "aye" or "nay".

**5.2 Motions:** No motion shall be entertained or debated until duly seconded and announced by the chair. The motion shall be recorded and, if desired by any councilmember, it shall be read by the recorder before it is debated and, by the consent of the council, may be withdrawn at any time before action is taken on the motion.

**5.3 Votes on motions:** Each member present shall vote on all questions put to the council except on matters in which they have been disqualified for a conflict of interest or under the appearance of fairness doctrine. Such member shall disqualify themselves prior to any discussion of the matter and shall leave the council chambers. When disqualification of a member or members results or would result in the inability of the council at a subsequent meeting to act on a matter on which it is required by law to take action, any member who was absent or who had been disqualified under the appearance of fairness doctrine may subsequently participate, provided such member first shall have reviewed all materials and listened to all tapes of the proceedings in which the member did not participate.

**5.4 Failure to vote on a motion:** Any councilmember present who fails to vote without a valid disqualification shall be declared to have voted in the affirmative on the question.

**5.5 Motions to reconsider:** A motion to reconsider must be made by a person who voted with the majority on the principal question and must be made at the same or succeeding regular meeting. No motion to reconsider an adopted quasi-judicial written decision shall be entertained after the close of the meeting at which the written findings were adopted.

## 6. Public hearing procedures

**6.1 Speaker sign-in:** Prior to the start of a public hearing the chair may require that all persons wishing to be heard sign in with the recorder, giving their name and whether they wish to speak as a proponent, opponent or from a neutral position. Any person who fails to sign in shall not be permitted to speak until all those who signed in have given their testimony. The chair, subject to the concurrence of a majority of the council, may establish time limits and otherwise control presentations. (Suggested time limit is three minutes per speaker or five minutes when presenting the official position of an organization or group.) The chair may change the order of speakers so that testimony is heard in the most logical groupings (i.e. proponents, opponents, adjacent owners, etc.).

**6.2 Conflict of interest/Appearance of fairness:** Prior to the start of a public hearing the chair will ask if any councilmember has a conflict of interest or appearance of fairness doctrine concern which could prohibit the councilmember from participating in the public hearing process. A councilmember who refuses to step down after challenge and the advice of the city attorney, a ruling by the mayor or chair and/or a request by the majority of the remaining members of the council to step down is subject to censure. The councilmember who has stepped down shall not participate in the council decision nor vote on the matter. The councilmember shall leave the council chambers while the matter is under consideration, provided, however, that nothing herein shall be interpreted to prohibit a councilmember from stepping down in order to participate in a hearing in which the councilmember has a direct financial or other personal interest.

**6.3 The public hearing process:** The chair introduces the agenda item, opens the public hearing and announces the following Rules of Order:

- (1) All comments by proponents, opponents or other members of the public shall be made from the podium; any individuals making comments shall first give their name and address. This is required because an official recorded transcript of the public hearing is being made.

- (2) No comments shall be made from any other location. Anyone making "out of order" comments shall be subject to removal from the meeting. If you are disabled and require accommodation, please advise the recorder.
- (3) There will be no demonstrations during or at the conclusion of anyone's presentation.
- (4) These rules are intended to promote an orderly system of holding a public hearing, to give every person an opportunity to be heard, and to ensure that no individual is embarrassed by exercising his/her right of free speech.
  - The chair calls upon city staff to describe the matter under consideration.
  - The chair calls upon proponents, opponents and all other individuals who wish to speak regarding the matter under consideration.
  - The chair inquires as to whether any councilmember has questions to ask the proponents, opponents, speakers or staff. If any councilmember has questions, the appropriate individual will be recalled to the podium.
  - The chair continues the public hearing to a time specific or closes the public hearing.

## 7. Duties and privileges of community members

**7.1 Meeting participation:** The public is welcome at all council meetings and are encouraged to attend and participate prior to the deliberations of the council. Recognition of a speaker by the chair is a prerequisite and necessary for an orderly and effective meeting, be the speaker an attendee, councilmember or staff member. Further, it will be expected that all speakers will deliver their comments in a courteous and efficient manner and will speak only to the specific subject under consideration. Anyone making out-of-order comments or acting in an unruly manner shall be subject to removal from the meeting. Use of cellular telephones is prohibited in the council chambers.

**7.2 Subjects not on the current agenda:** Under agenda item "Comments from city residents," the public may address any item they wish to discuss with the mayor and council. They shall first obtain recognition by the chair, state their name, address and subject of their comments. The chair shall then allow the comments, subject to a three (3) minute limitation per speaker, or other limitations as the chair or council may deem necessary. Following such comments, if action is required or has been requested, the chair may place the matter on the current agenda or a future agenda or refer the matter to staff or a council committee for action or investigation and report at a future meeting.

**7.3 Subjects on the current agenda:** Any member of the public who wishes to address the council on an item on the current agenda shall make such request to the chair or presiding officer. The chair shall rule on the appropriateness of public comments as the agenda item is reached. The chair may change the order of speakers so that testimony is heard in the most logical grouping (i.e. proponents, opponents, adjacent owners, etc.). All comments shall be limited to three (3) minutes per speaker, or other limitations as the chair or council may deem necessary.

**7.4 Manner of addressing the council – time limit:** Each person addressing the council shall step up to the podium, give his/her name and address in an audible tone of voice for the record and, unless further time is granted by the council, shall limit his/her remarks to three (3) minutes. Agenda items "Comments from city residents" and "Continued comments from city residents" shall be limited to a total of 30 minutes each unless additional time or less time is agreed upon by the council (dependent upon the length of the council agenda). All remarks shall be addressed to the council as a body and not to any member thereof. No person, other than the chair, members of the council and the person having the floor, shall be permitted to enter into any discussion, either directly or through the members of the council. No questions shall be asked of the councilmembers, except through the chair. The council will then determine the disposition of the issue (information only, place on present agenda, workshop, a future agenda, assign to staff, assign to council Committee or do not consider).

**7.5 Personal and slanderous remarks:** Any person making personal, impertinent or slanderous remarks or who shall become boisterous while addressing the council may be requested to leave the meeting and may be barred from further audience before the council during that council meeting by the chair or presiding officer.

**7.6 Written communications:** Interested parties, or their authorized representatives, may address the council by written communication in regard to any matter concerning the city's business or over which the council had control at any time. The written communication may be submitted by direct mail or by addressing the communication to the city clerk who will distribute copies to the councilmembers. The communication will be entered into the record without the necessity for reading as long as sufficient copies are distributed to members of the audience/public.

**7.7 Comments in violation of the appearance of fairness doctrine:** The chair may rule out of order any comment made with respect to a quasi-judicial matter pending before the council or its boards or commissions. Such comments should be made only at the hearing on a specific matter. If a hearing has been set, persons whose comments are ruled out of order will be notified of the time and place when they can appear at the public hearing on the matter and present their comments.

**7.8 "Out of Order" comments:** Any person whose comments have been ruled out of order by the chair shall immediately cease and refrain from further improper comments. The refusal of an individual to desist from inappropriate, slanderous or otherwise disruptive remarks after being ruled out of order by the chair may subject the individual to removal from the council chambers.

These rules are intended to promote an orderly system of holding a public meeting and to give every person an opportunity to be heard.

**8. Filling council vacancies and selecting mayor pro tem**

**8.1 Notice of vacancy:** If a council vacancy occurs, the council will follow the procedures outlined in RCW 42.12.070. In order to fill the vacancy with the most qualified person available until an election is held, the council will widely distribute and publish a notice of the vacancy and the procedure and deadline for applying for the position.

**8.2 Application procedure:** The council will draw up an application form which contains relevant information that will answer set questions posed by council. The application form will be used in conjunction with an interview of each candidate to aid the council's selection of the new councilmember.

**8.3 Interview process:** All candidates who submit an application by the deadline will be interviewed by the council during a regular or special council meeting open to the public. The order of the interviews will be determined by drawing the names; in order to make the interviews fair, applicants will be asked to remain outside the council chambers while other applicants are being interviewed. Applicants will be asked to answer questions submitted to them in advance of the interview and questions posed by each councilmember during the interview process. The councilmembers will ask the same questions of each candidate. Each candidate will then be allowed two (2) minutes for closing comments. Since this is not a campaign, comments and responses about other applicants will not be allowed.

**8.4 Selection of councilmember:** The council may recess into executive session to discuss the qualifications of all candidates. Nominations, voting and selection of a person to fill the vacancy will be conducted during an open public meeting.

**8.5 Selecting mayor pro tem and alternate mayor pro tem:** The mayor pro tem and Alternate mayor pro tem will be selected by the councilmembers.

**9. Creation of committees, boards and commissions**

**9.1 Community committees, boards and commissions:**

The council may create committees, boards, and commissions to assist in the conduct of the operation of city government with such duties as the council may specify not inconsistent with the city code.

**9.2 Membership and selection:** Membership and selection of members shall be as provided by the council if not specified otherwise in the city code. Any committee, board, or commission so created shall cease to exist upon the accomplishment of the special purpose for which it was created, or when abolished by a majority vote of the council. No committee so appointed shall have powers other than advisory to the council or to the mayor except as otherwise specified in the city code.

**9.3 Removal of members of boards and commissions:** The council may remove any member of any board or commission which it has created by a vote of at least a majority of the council (this rule does not apply to the civil service commission or any other such body which has statutory procedures concerning removal).

**10. Suspension and amendment of these rules**

**10.1 Suspension of these rules:** Any provision of these rules not governed by the city code may be temporarily suspended by a vote of a majority of the council.

**10.2 Amendment of these rules:** These rules may be amended or new rules adopted by a majority vote of all members of the council, provided that the proposed amendments or new rules shall have been introduced into the record at a prior council meeting.

# Sample procedures: Appearance of fairness and quasi-judicial hearing

For a complete explanation of the appearance of fairness doctrine and related hearing procedures, see the MRSC publication, *Appearance of Fairness Doctrine in Washington State*. The following sample procedures provide an example of a process for complying with the appearance of fairness doctrine in quasi-judicial hearings. They are provided as an example only – please do not copy without checking with your legal counsel. MRSC has samples of other council rules of procedure which include alternative wording.

## Appearance of fairness doctrine defined

“In short, when the law which calls for public hearings gives the public not only the right to attend but the right to be heard as well, the hearings must not only be fair but must appear to be so. It is a situation where appearances are quite as important as substance” (*Zehring v. Bellevue*, 99 Wn.2d 488, 1983). The court went on to say that “[t]he test of whether the appearance of fairness doctrine has been violated is as follows: Would a disinterested person, having been apprised of the totality of a board member’s personal interest in a matter being acted upon, be reasonably justified in thinking that partiality may exist? If answered in the affirmative, such deliberations, and any course of conduct reached thereon, should be voided” (*id*).

## Types of hearings to which doctrine applies

The appearance of fairness doctrine applies to land use decisions of the Council which are quasi-judicial in nature. Quasi-judicial actions are proceedings of the city council which determine the legal rights, duties, or privileges of specific parties in a hearing or other contested proceeding. Quasi-judicial actions do not include legislative actions adopting, amending, or revising comprehensive, community, or neighborhood plans or other land use planning documents or the adoption of area-wide zoning ordinances or the adoption of a zoning amendment that is of area-wide significance (RCW 42.36.010). Some examples of quasi-judicial actions which may come before the council are: rezones or reclassifications of specific parcels of property, appeals from decisions of the hearing examiner, substantive appeals of threshold decisions under the State Environmental Protection Act, subdivisions, street vacations, and special land use permits.

## General guidelines

a conflict of interest, but whether there is an appearance of conflict of interest to the average person. This may involve the councilmember, or a councilmember’s business associate, or a member of the councilmember’s immediate family. It could involve ex parte communications, ownership of property in the vicinity, business dealings with the proponents or opponents before or after the hearing, business dealings of the councilmember’s employer with the proponents or opponents, announced predisposition, and the like.

Prior to any quasi-judicial hearing, each councilmember should give consideration to whether a potential violation of the appearance of fairness doctrine exists. If the answer is in the affirmative, no matter how remote, the councilmember should disclose such facts to the mayor who will seek the opinion of the city attorney as to whether a potential violation of the appearance of fairness doctrine exists. The Mayor shall communicate such opinion to the councilmember.

Anyone seeking to disqualify a councilmember from participating in a decision on the basis of a violation of the appearance of fairness doctrine must raise the challenge as soon as the basis for disqualification is made known or reasonably should have been made known prior to the issuance of the decision; upon failure to do so, the Doctrine may not be relied upon to invalidate the decision. The party seeking to disqualify the councilmember shall state with specificity the basis for disqualification; for example: demonstrated bias or prejudice for or against a party to the proceedings, a monetary interest in outcome of the proceedings, prejudgment of the issue prior to hearing the facts on the record, or ex parte contact.

Should such challenge be made prior to the hearing, the mayor shall direct the city attorney to interview the councilmember and render an opinion as to the likelihood that an appearance of fairness violation would be sustained in superior court. Should such challenge be made in the course of a quasi-judicial hearing, the presiding officer shall call a recess to permit the city attorney to make such interview and render such opinion.



The mayor shall have sole authority to request a councilmember to excuse themselves on the basis of an appearance of fairness violation. Further, if two (2) or more councilmembers believe that an appearance of fairness violation exists, such individuals may move to request a councilmember to excuse themselves on the basis of an appearance of fairness violation. In arriving at this decision, the mayor or other councilmembers shall give due regard to the opinion of the city attorney.

Notwithstanding the request of the mayor or other councilmembers, the councilmember may participate in any such proceeding.

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## Hearing procedure

1. The mayor or other individual chairing the meeting will start by first describing the purpose of the meeting and will then read RCW 42.36.060:

During the pendency of any quasi-judicial proceeding, no member of a decision-making body may engage in ex parte communications with opponents or proponents with respect to the proposal which is the subject of the proceeding unless that person:

  - (1) Places on the record the substance of any written or oral ex parte communications concerning the decision of action; and
  - (2) Provides that a public announcement of the content of the communication and of the parties' rights to rebut the substance of the communication shall be made at each hearing where action is considered or taken on the subject to which the communication related. This prohibition does not preclude a member of a decision-making body from seeking in a public hearing specific information or data from such parties relative to the decision if both the request and the results are a part of the record. Nor does such prohibition preclude correspondence between a resident and their elected official if any such correspondence is made a part of the record when it pertains to the subject matter of a quasi-judicial proceeding.
2. The chairperson will then ask each councilmember to state for the record what ex parte contacts they have had, whether written or oral, concerning the matter to be decided.

3. The chairperson will then ask the following questions:
  - (a) Does any member of this council have knowledge of having conducted business with either the proponents or opponents of this [name type of project or proceeding]?
  - (b) Does any member of this council have either a pecuniary or a nonpecuniary interest in the outcome of this proceeding?
  - (c) Does any member of this council know whether or not their employer has a financial interest in the land or area which will be impacted by the decision in this proceeding?
  - (d) Does any member of this council live or own property within 300 feet of the area which will be impacted by the decision in this proceeding?
  - (e) Does any member of this council have any special knowledge about the substance of the merits of this proceeding which would or could cause the councilmember to prejudge the outcome of this proceeding?
  - (f) Is there any member of this council who believes that they cannot sit and hear this matter fairly and impartially, both as to the respective positions of the proponents and the opponents in this proceeding?
  - (g) Is there any member of the audience who because of the "appearance of fairness doctrine" wishes to disqualify any member of the council from hearing this matter? If so, please state the name of the councilmember and the reason or reasons why you believe that councilmember should be disqualified.

After the above procedure has been followed and all requests for disqualification have been handled, the mayor or other person chairing the meeting will proceed with the hearing in accordance with the agenda.

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## Additional resources

*Public Hearings – When and How to Hold Them*, MRSC Focus

*Knowing the Territory*, MRSC

*The Appearance of Fairness Doctrine in Washington State*, MRSC

## Public participation: Tips for talking with the council

The following is part of one city's guidance to the public on how they can provide input at council meetings. Similar language appears on several city web pages on the Internet.

- The city council welcomes participation in all public meetings. Arrangements for a sign language interpreter, hearing assistance and other assistance can be made by calling the council secretary at \_\_\_\_\_ or the deputy city clerk at \_\_\_\_\_.
- When you feel strongly about a public issue or a local concern, the council encourages you to share your information and thoughts with them. If you are unable to attend a meeting or would rather not give testimony at the meeting, you are encouraged to send/fax a letter which would be made a part of the official record.
- To speak during the public comment period, you do not have to sign up in advance, and you may talk on any item and/or concern not scheduled for a public hearing.
- If you want to speak on the topic at a public hearing scheduled for that evening, you must comment during the public hearing portion of the meeting, however, you need not sign up in advance.
- When you talk with the council, step up to one of the microphones and identify yourself by stating your name and address so they will know who you are. Be sure your microphone is on and speak into it clearly (it is not necessary to try to adjust the microphone to your height).
- During the public comment period, your comments are limited to three minutes. These are guidelines to help councilmembers hear as many different viewpoints as possible in the limited time available. If you are speaking for a group, you must tell the council how the group developed the position that you are presenting.
- If previous speakers have already made the comments you wish to make, feel free simply to identify yourself and indicate your agreement with what has already been said.
- During the public comment periods, residents have called the council's attention to a wide variety of issues concerning the city. Residents' views have ranged from concerns about parking in front of their homes to improving wheelchair accessibility throughout the city.

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### Suggested presentation model for precise, well organized proposals

- **Point.** What is the idea you wish to present? Begin with an "I statement" outlining your idea, such as, "I am here to (support/oppose)..."
- **Reason.** Why you are making this point. This is an important step so the listener does not make assumptions about your motives.
- **Example.** Brief and relevant example to clarify and make your point concrete.
- **Summary.** What condition will be changed or improved if your point is adopted?
- **Action.** (If appropriate, depending on the situation) What needs to be done and who will do it.

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### Public hearings

A public hearing offers you a formal opportunity to give your views to the Council on the subject of the hearing.

- To give testimony, step up to one of the microphones and identify yourself by stating your name and address for the record. When you talk to the council during a public hearing, councilmembers, staff and the audience will remain silent. After the last person has spoken, the hearing will be closed. The city council will then discuss and will often decide on the issue.
- The audience may not comment during council's deliberations unless a councilmember requests more information from a speaker.
- Again, you are also encouraged to submit your written comments on the subject to the council secretary or city clerk before the meeting so they can be included in the record and distributed to the council.



## Meeting tips

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### Meeting savvy

Consider these pieces of advice when preparing for a meeting:

- **Give colleagues time to assimilate things.** You'll notice that an idea rejected one day may be presented by the one who opposed it earlier.
- **Don't try to please everyone.** This simply does not work and makes you look weak and indecisive.
- **Confront meeting disrupters immediately.** Don't let them take control of the meeting or set its tone.
- **"We've always done it this way."** Don't become so enamored with precedent that it keeps the group from moving forward.
- **Don't waste quality meeting time dealing with routine complaints that can be resolved by staff outside the meeting.**
- **Apply rules equally with all participants.** Don't strictly enforce a time limit for one person and be lax with another.
- **Be careful about using first names of audience members you know and last names of those you don't.** It may be interpreted as bias.
- **Alert staff before the meeting if you intend to bring up an important issue.** This simple courtesy will help staff prepare background information and avoid embarrassment.
- **Be sensitive to audience perceptions regarding your neutrality during a recess, especially during hot meetings.** If you meet with one group and not with another, you may be perceived as favoring that group.
- **If you disagree with a significant statement or proposal made by a colleague or staff member at a meeting, express that disagreement.** Silence may be interpreted by staff as agreement and they may take action based upon that assumption.

### Chairperson faux pas

Acting as the chair for a group is a demanding task. Here are some common mistakes:

- Failing to remain impartial during a heated discussion.
- Forgetting to relinquish the gavel when the chair becomes emotionally involved in an issue.
- Treating members unevenly.
- Cutting off discussion before members are ready.
- Failing to close discussion in a timely manner.
- Failing to establish or follow the agenda.
- Allowing the meeting to become too informal; letting the meeting drift.
- Neglecting to explain the process being followed.
- Failing to restate audience questions so all in the audience can hear.
- Failing to recognize and deal with councilmember objections to procedure or process.
- Failing to protect members and staff from verbal attack.
- Losing track of amendments to motions.
- Failing to restate motions before they are voted upon.
- Forgetting to call recesses during long meetings.
- Neglecting to reconvene the meeting at the specified time after a recess.

Resist the temptation to be a dictator at council meetings. Remember: it's the council's meeting, not the mayor's meeting.

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## The art of asking questions: How to aid discussion by asking the right questions

Questions are one of the most important tools you can use to obtain information, focus the group and facilitate decision-making. Here are some samples:

### Asking of colleagues

- How do you feel about this item?
- What do you think the proposed action will accomplish?
- Would you please elaborate on your position?
- What results are we looking for?

### Asking of staff

- What other alternatives did you consider?
- Why has this item come to be on our agenda?
- What are we trying to accomplish with this law/policy?
- What are the benefits and drawbacks?
- Will you please explain the process?
- Have we ever made an exception to this policy?
- What would it take for you to support this?
- What type of feedback have you received from the residents?

### Asking of the public

- How will this proposal affect you?
- What do you think about the proposed action?
- What are your concerns?
- What other ways can you suggest for solving the problem?

### To broaden participation

- We've heard from some of you. Would others who have not yet spoken like to add their ideas?
- How do the ideas presented thus far sound to those of you who have been thinking about them?
- What other issues related to this problem should we discuss?

### To limit participation

- We appreciate your contributions. However, it might be well to hear from some of the others.
- You have made several good statements, and I am wondering if someone else might like to ask a question or make a statement.
- Since all of the group have not yet had an opportunity to speak, I wonder if you could hold your comments until a little later?

### To focus discussion

- Where are we now in relation to the decision we need to make?
- Would you like to have me review my understanding of what's been said and where we are?
- Your comment is interesting. However, I wonder if it relates to the problem before us?
- As I understand it, this is the problem...Are there additional comments before we come to a decision?

### To help the group move along

- I wonder if we've spent enough time on this and are ready to move along to...?
- Have we gone into this part of the problem far enough so that we can shift our attention to...?
- In view of the remaining agenda items, would it be well to go to the next question before us?

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### To help the group reach a decision

- Do I sense an agreement on these points...?
- What have we accomplished up to this point?
- Should we look at our original objective and see how we close we are to it?
- Would someone care to sum up our discussion on this issue?

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### To lend continuity

- At our last meeting we discussed this issue. Anyone care to review what we covered then?
- Since we cannot reach a decision at this meeting, what issues should we take up at the next one?
- Are there points that need further study before we convene again?

Source:  
*Elected Official's Little Handbook*, Len Wood  
*If You Only Had More Time – But You Don't*, International City Management Association

## Parliamentary procedure

Parliamentary procedure provides the process for proposing, amending, approving and defeating legislative motions. Although following parliamentary procedure is not required, it can make council meetings more efficient and reduce the chances of council actions being declared illegal or challenged for procedural deficiencies.

A city may adopt, by ordinance or resolution, its own set of rules governing the conduct of council meetings, or it may adopt by reference formalized rules such as Robert's Rules of Order. Many Washington cities have adopted Robert's Rules, supplementing those rules with additional rules on issues such as voting abstentions and motions for reconsideration. (See Appendix 6, Sample Council Rules of Procedure.)

### Motions

Business is brought before the council by motions, a formal procedure for taking actions. To make a motion, a councilmember must first be recognized by the mayor. After the councilmember has made a motion (and after the motion is seconded if required), the chair must then restate it or rule it out of order, then call for discussion. Most motions require a second, although there are a few exceptions.

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Exact wording of motions and amendments is important for clarity and recording in the minutes. If it's a complex motion, the motion should be written down for the chair to read.

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### Robert's Rules

The following summarizes important points from Robert's Rules of Order. Other parliamentary rules or your own council rules of procedure may contain different provisions.

- Only one subject may be before a group at one time. Each item to be considered is proposed as a motion which usually requires a "second" before being put to a vote. Once a motion is made and seconded, the chair places the question before the council by restating the motion.
- "Negative" motions are generally not permitted. To dispose of a business item, the motion should be phrased as a positive action to take, and then, if the group desires not to take this action, the motion should be voted down. The exception to this rule is when a governing body is asked to take action on a request and wishes to create a record as to why the denial is justified.
- Only one person may speak at any given time. When a motion is on the floor, an order of speaking is prescribed by Robert's Rules, allowing the mover of a motion to speak first, so that the group understands the basic premise of the motion. The mover is also the last to speak, so that the group has an opportunity to consider rebuttals to any arguments opposing the motion.
- All members have equal rights. Each speaker must be recognized by the moderator prior to speaking. Each speaker should make clear their intent by stating, "I wish to speak for/against the motion" prior to stating arguments.
- Each item presented for consideration is entitled to a full and free debate. Each person speaks once, until everyone else has had an opportunity to speak.
- The rights of the minority must be protected, but the will of the majority must prevail. Persons who don't share the point of view of the majority have a right to have their ideas presented for consideration, but ultimately the majority will determine what the council will or will not do.

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## Types of motions

*Robert's Rules of Order* provides for four general types of motions.

### Main motions

The most important are main motions, which bring before the board, for its action, any particular subject. Main motions cannot be made when any other motions are before the group.

### Subsidiary motions

Subsidiary motions are motions which direct or change how a main motion is handled. These motions include:

**Tabling.** Used to postpone discussion until the group decides by majority vote to resume discussion. By adopting the motion to "lay on the table", a majority has the power to halt consideration of the question immediately without debate. Requires a second, nondebatable, not amendable.

**Previous question or close debate.** Used to bring the body to an immediate vote. It closes debate and stops further amendment. Contrary to some misconceptions, the majority decides when enough discussion has occurred, not the moderator. The formal motion is to "call for the question" or "call for the previous question," or simply, "I move to close debate." The motion requires a second, is not debatable and requires a two-thirds majority.

**Limit/extend debate.** May be desired if the group has adopted a rule limiting the amount of time that will be spent on a topic, or if the group desires to impose a time limitation.

**Postpone to a definite time.** Similar to tabling, except that the motion directs that the matter will be taken up again at some specific date and time.

**Refer to committee.** Directs that some other body will study the matter and report back.

**Amendment.** Used to "fine tune" a motion to make it more acceptable to the group. The amendment must be related to the main motion's intent and cannot be phrased in a way that would defeat the main motion. Two amendments may be on the floor at one time: the first amendment modifies the main motion, and the second amendment must relate to the first amendment. When an amendment is on the floor, only the amendment may be debated. The amendments are voted on in the reverse order in which they were made, as each amendment changes to some degree the intent of the main motion. As each amendment is voted on, an additional primary or secondary amendment may be introduced. Requires a second, debatable, majority vote.

**Postpone indefinitely.** This motion effectively kills a motion, because, if adopted, a two-thirds vote is subsequently required to take the matter up again.

### Incidental motions

Incidental motions are housekeeping motions which are in order at any time, taking precedence over main motions and subsidiary motions. These motions include:

**Point of order.** To bring to the group's attention that the rules are being violated. You don't need not to be recognized prior to making a point of order. This is not really a motion, but requires the moderator to make a ruling as to whether or not immediate consideration is proper.

**Appeal from the decision of the chair.** The group can overrule the chair on any decision. While the motion must be seconded, it cannot be amended. When this motion is moved and seconded, the moderator immediately states the question, "Shall the decision of the chair stand as the judgment of the council?" If there is a tie vote, the chair's decision is upheld. The motion is not debatable when it applies to a matter of improper use of authority or when it is made while there is a pending motion to close debate. However, the motion can be debated at other times. Each person may speak once, and the moderator may also state the basis for the decision.

**Parliamentary inquiry.** Not a motion, but a question as to whether an action would be in order.

**Point of information.** A person may rise to offer information that is considered necessary for the group. This provision is not used to offer debate.

**Division of assembly.** To require a more precise method of counting votes than by a voice vote, such as having persons raise hands, or stand. No second, not debatable, no vote required.

**Request to withdraw a motion.** Contrary to popular misconception, a motion cannot be withdrawn by its mover. This request requires majority approval.

**Suspension of the rules.** When matters are to be taken out of order, or a particular task can be better handled without formal rules in place, this motion can be approved by a two-thirds vote of the group. However, until the rules are restored, only discussion can occur; no decisions can be made. Second required, not debatable, not amendable.

**Object to consideration of a question.** When a motion is so outrageous, intended to distract the group from resolving legitimate business. The motion can be objected to and ruled out of order without debate. However, if the chair does not rule the motion out of order, a two-thirds vote of the group can block further consideration

## Renewal motions

Once the group has taken action, renewal motions require the group to further discuss or dispose of a motion. The motions include:

**Reconsider.** When the group needs to discuss further a motion that has already been defeated at the same meeting. A majority of the council must approve taking additional time to debate the motion again. The motion can be made only by a person who voted on the prevailing side earlier on the question. Contrary to another popular misconception, the motion may be brought up again at a subsequent meeting. If the moderator believes that there is no indication that the group's wishes have changed, however, the motion can be ruled out of order, subject to an appeal from the decision of the chair.

**Take from the table.** Unless the original motion to table directed that the motion be brought back at a specific date and time, a majority of the group must pass a motion to take from the table. Such a motion is nondebatable.

**Rescind.** When the group wishes to annul some action, a motion to rescind is in order at any time. If prior notice has been given to the group that this action will be considered, the motion to rescind can pass with a simple majority vote; however, if no prior notice has been given, the vote requires a two-thirds majority.

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## Questions of privilege

Finally, there are a few questions of privilege that are in order at any time and must be disposed of prior to resuming discussion on the matter at hand:

**Fix the time for next meeting.** This is in order at any time, including when a motion to adjourn is pending. Second required, not debatable, amendable.

**Adjourn.** To bring the meeting to a halt. Second required, not debatable, not amendable. Alternatively, instead of a motion, the chair can ask if there is any further business. If no response, the chair can say, "since there is no further business, the meeting is adjourned."

**Recess.** A temporary break in the meeting; should state a time at which the meeting will resume. Second required, not debatable, not amendable.

**Point of privilege.** A matter that concerns the welfare of the group. Can be raised even when another person is speaking. No second, not debatable, no vote required.

**Call for the orders of the day.** A demand that the group return to the agenda. Can be taken when another person is speaking, no second required, not debatable, no vote required.





## Keeping out of trouble

Public officers have the duty of serving the public with undivided loyalty, uninfluenced by any private interest or motive. Care must be taken not to violate this duty of trust, either in appearance or in fact. The behavior of public officers is often scrutinized by the public and is the subject of a profusion of laws. The statutory provisions and common law doctrines that public officials should be familiar with include:

- Conflict of interest
- Incompatible offices
- Appearance of fairness
- Public records disclosure
- Financial disclosure
- Salary increase prohibitions

Keep in mind that there may be overlap between these topics. For example, an activity that passes the conflict of interest test may violate appearance of fairness. It is beyond the scope of this publication to discuss most of these doctrines in any detail. However, be aware that more detailed information is available on these doctrines in the MRSC publication *Knowing the Territory*.

A brief discussion of financial disclosure requirements and the salary increase prohibitions will be provided here because these doctrines are not discussed in *Knowing the Territory*.

### Financial disclosure by public officials

Another component of “open government” is personal disclosure of the financial affairs of elected officials. The disclosures of political campaign financing and legislative lobbying are other important areas, but they will not be discussed here. Presumably, councilmembers have been exposed to those requirements as part of their campaign process.

Financial disclosure is required of all elected officials and members of their immediate families, except in small cities and towns. (RCW 42.17A.710). A statement of financial affairs for the preceding calendar year must be filed between January 1 and April 15. Financial disclosure is also required of an appointee in an elective office vacancy.

#### **Q. Is any financial disclosure required of nonelected officials?**

**A.** The only appointed city official who is required to make personal financial disclosures is the treasurer. (RCW 42.17A.570). Cities and towns with populations of 1,000 or fewer are exempt. The scope of the financial disclosure required of treasurers is more limited than for elected officials, consisting of information about financial institutions where the treasurer holds an office, directorship, or ownership interest and where public funds are held.

#### **Q. What small cities and towns are exempt from disclosure requirements?**

**A.** Officials in cities and towns with fewer than 2,000 registered voters as of the date of the most recent general election are exempt from the financial reporting requirements. (RCW 42.17A.135). However, officials in these municipalities can be required to file financial disclosures upon petition of 15 percent of the registered voters or upon adoption of an ordinance or resolution to that effect.

## Salary increases for elected officials

### **Q. May a councilmember receive a salary increase immediately?**

**A.** The general rule is that salary increases, adopted by ordinance, may not raise the salaries of current councilmembers. The state constitution prohibits an increase (or decrease) in the salary of city or town councilmembers after election or during their term of office. This means that the city or town council can vote to increase salaries, but the new salaries may not take effect until after the next election, and even then would be effective only for those councilmembers who are up for re-election. As long as the salary increase ordinance was passed prior to the election, councilmembers are eligible to receive the pay increase as soon as they begin a new term of office. There is one exception. If salaries are set by a salary commission, an increase can go into effect immediately.

### **Q. May a mayor in a mayor-council city receive a salary increase immediately?**

**A.** The salary of mayors may be raised during their term of office, as long as their vote was not required to pass the applicable ordinance. The state constitution contains an exception allowing salary increases during an official's term in office if that official does not fix their own compensation. The exception cannot be triggered by an official abstaining from the vote for a salary increase because it is a councilmember's authority to fix compensation that is determinative. This exception would allow the salary of a mayor in a mayor-council city to be increased during their term of office, provided that the vote of the mayor is not necessary for the passage of the applicable ordinance. (Attorney General's Opinion, AGO 1968 No. 36).

### **Q. May a person appointed to fill a council vacancy receive a salary increase immediately, if the increase was enacted prior to the appointment?**

**A.** No, because the Washington Supreme Court has held that the constitutional provision forbidding change in the compensation of a public officer during a term of office refers to the term itself, not to the individual. Therefore, the salary increase is not effective as to an officer appointed or elected to fill out the unexpired term of their predecessor, in situations where the predecessor had been elected prior to the time the salary increase was adopted. (State ex rel. Wyrick v. Ritzville, 16 Wn.2d 36, (1942)).

## **Are mayor and councilmember emails, texts, and social media subject to public disclosure?**

It is important for councilmembers to understand that emails they send, which qualify as public records, are subject to public disclosure under the state Public Records Act (RCW 42.56). Under the Act, a "public record" is broadly defined to include electronic records "containing information relating to the conduct of government or the performance of any proprietary function . . ." Email, text messages, social media, like any other written correspondence and memoranda, which falls within this definition, with few exceptions stated by the Public Records Act, are public records.

This means that email communications between councilmembers, councilmembers and community members, councilmembers and other officials, councilmembers and members of boards and commissions, and councilmembers and city staff may be subject to disclosure. Caution: Keep this in mind as you compose emails, recognizing that your audience may ultimately be broader than the direct recipients of your communication.

# Initiative, referendum, and recall

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## Initiative and referendum

The powers of initiative and referendum are means by which residents can impact legislation directly. Initiative is the power of the public to initiate ordinances by petition. Referendum is the means by which the public can have enacted ordinances referred to them for review. These powers of the public are not universally available. In fact, the powers of initiative and referendum are only available in first class cities, code cities, and cities organized under the commission form of government. Code cities do not automatically have the powers of initiative and referendum, but may adopt them, either by voter resolution or by resolution of a majority of the city council.

(First class cities - RCW 35.22.200 (and the charters); code cities - RCW 35A.11.080 - .100; commission cities - RCW 35.17.240 - .360).

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## How are the powers of initiative and referendum exercised?

Initiative and referendum procedures in first class cities are controlled by each city's charter. Voters of a commission city or a code city which has acquired the powers of initiative and referendum may initiate ordinances or have certain ordinances which have been passed by the legislative body referred to them for affirmation or rejection at an election. In either instance, the process is begun by petition. In a commission city, a petition is filed, signed by registered voters equal in number to 25 percent of the votes cast for mayoral candidates at the last preceding city election. In a code city, the petition requires signatures of registered voters equal to 15 percent of the number of registered voters in the city as of the date of the last preceding city general election.

Certain ordinances are not subject to referendum. The following ordinances are excepted from the process in both commission and code cities:

- Ordinances initiated by petition
- Ordinances necessary for the immediate preservation of public peace, health, and safety, or for the support of city government and its existing public institutions, which contain a statement of urgency and are passed by a unanimous vote of the commission or council
- Ordinances providing for local improvement districts

In addition, the following types of ordinances are exempt from referendum in a code city:

- Ordinances appropriating money
- Ordinances providing for or approving collective bargaining
- Ordinances providing for the compensation of or working conditions of city employees
- Ordinances authorizing or repealing the levy of taxes

If a valid petition is filed seeking a referendum, the ordinance does not go into effect until it has received a majority of the votes cast at the election.

If a valid initiative petition is filed (accompanied by a proposed ordinance), the commission or council shall either pass the ordinance within 20 days of the clerk's certification of the petition, or else submit the ordinance to the voters at a general or special election called for that purpose. (RCW 35.17.260).

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## Recall

Elected officials are subject to voter petition for recall under state law (RCW 29A.56.110-29A.56.270). The procedures require that a petition be filed setting forth charges that an elected public official has committed an act, or acts, of malfeasance, or has violated their oath of office. "Misfeasance" or "malfeasance" means performance of a duty in an improper manner or wrongful conduct that interferes with performance of official duty. "Violation of the oath of office" means the willful neglect or failure by an elective public officer to faithfully perform a duty imposed by law. The petition for recall must state specific conduct that clearly amounts to misfeasance, malfeasance, or violation of the oath of office. In addition, the person making the charge must have knowledge of the underlying facts. If the court finds the petition sufficient, then the sponsors of the recall must obtain a set number of supporting signatures before the recall election is conducted. A majority vote in favor of recall results in the official's discharge from office.

Voter actions such as recall are rarely initiated. The availability of such extreme remedies, however, serves to emphasize the accountability of elected officials to the public. This accountability, which is at the core of our political system, places certain expectations on the behavior of elected officials. Some of these expectations are explicitly formulated into rules, an understanding of which is necessary to keep elected officials out of trouble.



## The mayor pro tempore

On occasion, a councilmember may need to serve in the role of mayor. The mayor pro tempore (also called the mayor pro tem or the deputy mayor) is appointed by the council to serve in the absence of the mayor. The mayor pro tempore presides at meetings of the council, administers oaths, and signs instruments in the absence of the mayor. A councilmember acting as mayor pro tempore generally retains their councilmanic vote. The mayor pro tempore generally serves only when the mayor's absence is temporary. When a vacancy occurs in the office of mayor, a new mayor is appointed by the council. The authority of a mayor pro tempore varies somewhat according to the city classification.

- **First class cities:** The powers of the mayor pro tempore are controlled by the city charter.
- **Second class cities:** The mayor pro tempore is a councilmember elected by the members of the council. The mayor pro tempore may not appoint any officer or veto any ordinance. (RCW 35.23.191).
- **Towns:** The mayor pro tempore is chosen by the council for a specified period of time, not to exceed six months. (RCW 35.27.160).
- **Code cities:** The Optional Municipal Code calls for the designation by the city council of a councilmember or "any qualified person" to serve as mayor pro tempore. (RCW 35A.12.065).



# Definitions

**Administrative.** Pertaining to management and carrying out of laws and functions, as opposed to legislative and judicial.

**Agency and trust funds.** Funds established to account for cash and other assets held by a municipality as agent or trustee. Such funds are not assets of the municipality but, through the operation of law or by agreement, the municipality is responsible for their accountability. Examples are the Fireman's Relief Fund and the Police Pension Fund.

**Allocation of funds.** To set aside funds for a specific purpose or program.

**Amendment.** A change or addition which changes the meaning or scope of an original formal document. Often these are laws or regulations. However, plans or specifications can also be amended.

**Appropriation.** A sum of money authorized by a legislative body to be spent for a certain purpose.

**Assessment.** The value placed on an item of real or personal property for property tax purposes. The rate of tax times the value equals the amount of tax levied on the property. Also a special tax levied on the property within a special assessment district.

**Audit.** An examination of the financial activities of an agency and the report based on such examination.

**Bond.** A debt instrument issued by a municipality. Bonds normally bear interest. They are a common way of raising money for capital improvements.

**Budget.** A plan for spending and receiving money to sustain municipal operations during a fiscal year or years. A capital budget is a plan for financing purchases or construction of items of high cost and long life, such as fire engines, streets, and buildings.

**Capital outlay.** Expenditures made to acquire fixed assets or additions to them. They are recorded in the general fund or utility fund where the assets are to be used. Ultimately, under good property accounting, such assets acquired through the general fund should be reflected in the general fixed assets group of accounts.

**Capital program or capital budget.** A schedule of purchase or construction of items of high cost, such as fire engines, streets, and buildings, over a period of years (normally five) together with a plan for spending and receiving the money to pay for the items.

**Capital reserve fund.** Established to account for resources legally set aside for anticipated capital expenditures, including construction, purchase or replacement of, or additions to, municipal building, equipment, machinery, motor vehicles or other capital assets.

**Certification.** A formal, written declaration that certain facts are true or valid.

**City manager.** The chief administrator of a municipality in the council-manager form of government, appointed by the council as the city's chief executive.

**Civil service system.** A means of hiring & disciplining employees, usually pertaining to police and fire, whereby a civil service commission hears appeals on complaints brought by employees and applicants.

**Cluster development.** A type of residential development where the overall density conforms to typical standards but allows for the concentration of structures on a portion of the tract while leaving the remaining open space for common resident usage. This type of development should be sympathetic to environmental conservation and protection.

**Collective bargaining.** A process by which an employee organization/union negotiates with an employer to reach agreement on wages, hours, and terms and conditions of employment.

**Comprehensive plan.** A generalized, coordinated land use policy statement of the governing body of a city, town, or county, consisting of a map or maps and descriptive text covering objectives, principles and standards used to develop the plan. A GMA comprehensive plan must include a plan, scheme, or design for (at least) the following elements: land use; housing; capital facilities; utilities; natural resource lands and critical areas; and rural areas (counties only).

**Conditional use.** A use which is not appropriate to a particular zone district as a whole, but may be suitable in certain localities within the district only when specific conditions and factors prescribed for such cases within the zoning ordinance are present. Conditional uses are allowed or denied by a board of adjustment, planning commission, city council or hearings examiner.

**Council.** The governing body of a city which sets legislative policy for the city.



**Debt service.** Payments to creditors, primarily the holders of municipal bonds. Debt service includes principal, interest and minor incidentals such as agents' fees.

**Developer.** Any landowner, agent of such landowner or tenant with the permission of such landowner, who makes or causes to be made a subdivision of land or a land development.

**Development plan.** The provisions for the development of a tract of land, including a subdivision plat, all covenants relating to use, location and bulk of buildings and other structures, intensity of use or density of development, streets, ways and parking facilities, common open space and public facilities.

**Easement.** A right-of-way for public or quasi-public use. Normally, they are used for utilities, bridle paths, parkways, floodways, scenic uses, and other purposes. The fee title to land in the easement areas remains tied to the adjacent land, and the easement rights are relinquished when the public or quasi-public use ceases.

**Effluent.** A term applied to the water discharged from a sewage treatment device.

**Eminent domain.** The concept of the power of certain governmental entities to acquire, for public use, privately owned real estate, by means of legal processes and adjudicated compensation to the private owner.

**Executive.** The power to carry out laws and functions, veto legislation, appoint planning commissioners and perform other duties as prescribed by law. If a municipality has a city manager, the administrative portion of the executive function is the responsibility of the manager.

**Executive session.** A meeting closed to the public; they can legally be held only for certain purposes.

**Feasibility study.** A preliminary survey to determine the design, aesthetics, construction and economic aspects of a proposed project.

**Flood plain.** The area along a natural watercourse subject to periodic overflow by water.

**General fund.** Used to account for all revenues and the activities financed by them, which are not accounted for in some special fund.

**General obligation bond.** A financial instrument giving borrowing power to a municipality, based upon pledging of taxing power to retire the debt and pay interest.

**General obligation bond funds.** Established to account for the proceeds from bond sales and other revenues properly allocated to these funds and the costs of projects financed by them.

**Impact fees.** Fees imposed on new development activities as partial financing for public improvements (public streets and roads, publicly owned parks, school facilities, etc.).

**Improvements.** Those physical changes to the land necessary to produce usable and desirable lots from raw acreage including but not limited to; grading, paving, curb, gutter, storm sewers and drains, improvements to existing watercourses, sidewalks, crosswalks, street signs, monuments, water supply facilities and sewage disposal facilities.

**Industrial park.** A planned industrial area where consideration has been given to human and aesthetic values, such as vegetation, open space and buffer zones.

**Interest arbitration.** A process by which an impartial third party decides the content of a collective bargaining agreement when the employer and the employee group reach impasse in negotiations. Pertains only to full-time fire departments and police departments in cities with greater than 2,500 population.

**Job description.** An outline of the duties assigned a class of personnel positions together with the training and experience normally required to qualify for the class.

**Judicial.** The power to judge, to administer justice and interpret laws and ordinances.

**Land development.** The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving (a) group of two or more buildings or (b) the division or allocation of land or space between or among two or more existing or prospective occupants to include streets, common areas, leaseholds, condominiums, building groups or other features; a subdivision of land.

**Legislative.** Pertaining to the power to make laws as opposed to administrative, executive and judicial.

**Mayor.** The chief executive of the city in the strong-mayor form, the ceremonial head in a council-manager form.

**Meeting.** A gathering of elected officials set or called in accordance with prescribed laws or charter provisions and where business may be transacted.

**Mill.** A property tax equal to one dollar of tax per one thousand dollars of assessment.

**Nonconforming use.** A use, whether of land or of structure, not complying with the applicable use provisions in a zoning ordinance or amendment.

**Nonconforming structure.** A structure or part of a structure manifestly not designed to comply with the applicable use provisions in a zoning ordinance or amendment as enacted, where such structure lawfully existed prior to the enactment of such ordinance or amendment to its location. Such nonconforming structures include, but are not limited to, nonconforming signs.

**Official.** A person who occupies a municipal legislative, judicial, administrative, executive or enforcement position.

**Ordinance.** A law or statute enacted by a city, town or county. See Resolution.

**Personnel system.** A method of recruiting, selecting and promoting people to perform the work of a municipal organization and the method of classifying and assigning pay scale to their jobs together with related personnel activities concerning hours of work, training, grievance procedures, and union relationships.

**Planned residential development (Planned unit development).** An extension of cluster development including detached, semi-detached, attached and multi-storied structures, and may include land uses other than residential to the extent they are designed to serve the residents.

**Planning.** A process of deciding what is to be done and how it is to be accomplished; the process of deciding how land should be used and where public facilities should be located.

**Planning commission.** A planning agency, authorized by law to prepare and recommend plans for the development of physical, social, economic and cultural resources/facilities within a city.

**Plat.** The official map of a subdivision of land.

**Public hearing.** A meeting or portion of a meeting set up to give members of the public a chance to speak on a particular subject such as a proposed ordinance.

**Regulation.** A rule, procedure or other formal requirement passed to carry out the purpose of the law. It carries the same legal power as the law. However, the rule or formal requirement may only be used to carry out the purpose of the law under which it is passed.

**Revenue bonds.** A borrowing tool with higher interest rates than general obligation bonds, but does not need voter approval. Based on a revenue-producing project and not municipal taxing power.

**Resolution.** An act that is typically less formal than an ordinance, expressing the opinion or mind of the legislative body, and generally dealing with matters of a special or temporary character.

**Revisions.** Written or added changes, corrections or improvements to a plan, specification or drawing.

**Revolving funds.** Special purpose funds providing a constant source of funds for assessable public improvements. General obligation bonds, repayable from general revenues, as well as assessed taxes, may be used as sources for establishing such a fund.

**Right-of-way.** The right of passage over the property of another. The public may acquire it through direct dedication from land subdivision or through implied dedication – accepted access over a period of time to a beach or shoreline. The pathways over which utilities and drainage ways run are often referred to as easements.

**Sinking fund.** Established to account for the accumulation of money providing for the retirement of bonds and the payment of interest.

**Soil percolation test.** A field test conducted to determine the absorption capacity of soil to a specific depth in a given location for the purpose of determining suitability of soil for on-site sewage disposal.

**Special assessment bond funds.** Similar to general obligation bond funds, however, the cost of public improvements provided by the bond proceeds are assessed against owners of properties benefited by the improvements.

**Special revenue funds.** These funds are established to account for revenues specifically raised for a particular purpose. A special fund is usually created for each purpose (light tax fund, water tax fund).

**Specifications.** The written instructions which accompany and supplement the drawings in a contract.

**Subdivision.** The division of a single tract or other parcel of land into two or more lots. (Specific definitions will vary in specific ordinances or regulations.)

**Subdivision and land development regulations.**

Procedures and requirements which must be met before the subdivision or development of land is permitted.

**Taking.** Subject to much litigation and court interpretation, this term refers to the taking and appropriation of private property for public use, with "just" compensation paid to the property owner.

**Temporary funds.** Created to accommodate a specific need that may arise. Must include a system of complete accountability and be closed promptly upon completion of its purpose. Remaining assets should be distributed in accordance with the intentions of the elected officials as set forth at the time the fund was created.

**Urban growth area.** Areas defined, under the Growth Management Act, by cities and counties for projected growth and provision of urban services.

**Utility funds.** These funds account for the financial transactions of utility services rendered to the general public financed by specific user charges (water fund, electric fund, sewer fund).

**Variance.** The permission granted by a city council, board of adjustment or hearing examiner, following a public hearing, for an adjustment to some regulation in a zoning ordinance to alleviate an unnecessary hardship. The permission granted must not be contrary to the public interest and maintain the spirit and original intent of the ordinance.

**Zoning.** The regulation by a municipality (city, town, or county) of the use of land within its jurisdiction, and of the buildings and structures located thereon, in accordance with a general plan and for the purposes set out in the enabling statute.



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# *Local Government Policy-Making Process*

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## **PREFACE**

This publication has been written primarily for local officials and staff in the state of Washington. Citizens and representatives of community interest groups who participate in local issues may also find this publication useful. The purposes of this publication are to describe the local government policy-making process, outline effective roles for local officials, and to provide practical tips to make the local policy-making process more satisfying and productive. Local policy-making is complex, demanding the very best of local officials. It is worth the effort. The destiny of your community – the fulfillment of its dreams and aspirations – flow out of the exercise of policy-making.

The policy-making process weighs and balances public values. Often there is no “right” choice or correct technical answer to the question at hand. That is why policy-making can be an adversarial process, characterized by the clash of competing and conflicting interests and viewpoints rather than an impartial, disinterested or “objective” search for “correct” solutions for policy problems. Because of these value clashes, the policy-making process can get emotional. However, it does not have to be rancorous. If you are a local official, you will be more effective and productive over the long-term if you respect the viewpoints of others – whether you agree with their position or not. Take time to understand your roles and responsibilities. Legislators, for example, are most effective if they focus on policy issues, not administrative matters. And chief executive officers such as mayors, county executives and city managers are most effective when they recognize and support the policy-making responsibilities of their local councilmembers and commissioners.

Many people deserve credit for the development of this publication. Officials and staff of Federal Way and the community leaders who participated in the Federal Way Leadership program were the initial inspiration for this project. Their spirit and dedication to local government issues reaffirmed my belief that local policy is important community work. I would like to extend a special thanks to Bob Jean, the City Manager of University Place, for enthusiastically sharing his insights about local policy-making activities, providing several of the illustrations, and critically reviewing the draft of this publication.

Additionally, I would like to thank Bob Meinig, Tom Sutberry, Carol Tobin, Byron Katsuyama, and Ron Bartels of the MRSC staff for reviewing drafts of this publication and making constructive suggestions to improve its content. Lynne De Merritt provided valuable editing assistance. And Holly Martin put the document in final published form.

This is a work in progress. Please share your experiences with us so that we can improve future editions of this publication. I hope that you will find this report useful in carrying out your local policy development responsibilities.



Richard Yukubousky, Executive Director  
Municipal Research & Services Center of Washington



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# INTRODUCTION

*"My experience in government is that when things are non-controversial and beautifully coordinated, there is not much going on."*

*John Fitzgerald Kennedy*

Policy-making is often undervalued and misunderstood, yet it is the central role of the city, town, and county legislative bodies. The policies created by our local governments affect everyone in the community in some way. Public policy determines what services will be provided to the residents and the level of those services, what kinds of development will occur in the community, and it determines what the community's future will be. Policies are created to guide decision-making. Elected councilmembers of cities, towns, and counties have public policy-making responsibilities. County commissioners also set policy, but have an executive role of administering policy as well.

Local policy-making is complex. It demands the very best of local officials. The public policy-making process is highly decentralized. Policy initiation, formulation, adoption, and implementation involve many interests. This process has been characterized as tending to be "fluid, incremental, confused, often disorderly and even incoherent." [*Public Policy Making, Washington Style, Bone et. al.*, p. 4]. And yet, from this, the destiny of a community – the fulfillment of its dreams and aspirations – flow out of the exercise of the policy-making process.

This publication provides an overview of the local government policy-making process. It does not discuss theories, nor does it deal with the "art and science" of policy-making. It is written from a practical standpoint and is intended to provide the reader with a better understanding of the roles and responsibilities of legislators as policy-makers. It discusses how local public policy is created and provides practical tips, based on experience, on how to make the policy-making process more productive and satisfying for participants. Since confusion or disagreement about policy-making has been a frequent source of conflict for local governments, an important objective of this publication is to help Washington local government officials distinguish between policy and administrative matters.

### **What Is Policy?**

Formally adopted policy generally takes the form of a governing principle, plan, or course of action. In the public sector it generally evolves from a deliberative process, and is adopted by an ordinance or resolution. Legislative bodies make public policy decisions; others perform the administrative task of implementing those policies. The decisions could be the adoption of a vision for the community, a comprehensive plan, a budget, or a policy relating to a specific issue, such as allowing or prohibiting local gambling activities. Policy-making requires political wisdom, diplomacy, and prudence to bring diverse community interests together around a shared purpose. Common usage of the term "policy" also includes the wise and expedient conduct of management; thereby blurring the line between policy and administration and causing confusion in the roles of elected legislators.

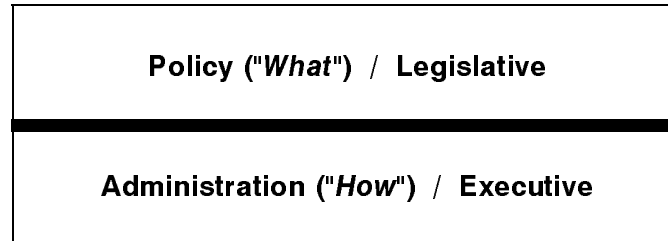
Public policy is a combination of basic decisions, commitments, and actions made by those who hold authority or affect government decisions. The policy-making process weighs and balances public values. Often there is no "right" choice or correct technical answer to the issue at hand. Policy-making can be an adversarial process, characterized by the clash of competing and conflicting interests and viewpoints rather than an impartial, disinterested, or "objective" search for "correct" solutions for policy issues. The larger and more diverse the constituency, the more difficult policy-making becomes, particularly when addressing regional issues. Democracy is sometimes *messy*. Since our government is a representative democracy, an effective policy-making process insures that all relevant viewpoints are heard, and that the rights of individuals are protected.

# **MAKING POLICY IS JOB # 1 FOR LEGISLATORS**

*"The buck stops here."*

*Harry S. Truman*

The key to avoiding conflicts is to recognize that the general public policy of the municipality is usually a matter for the legislative body to determine: the city or town council, the county council, and the board of county commissioners, though the latter also has an executive and administrative function. It is also important to recognize that it is not the role of the legislative body to administer city or county affairs, except in the case of the county commission. The council sets policy, but it is either the county executive, the mayor, or city manager that actually sees that the policies are implemented. Since the distinction between formulation and implementation is not always clear, open communications between legislators and administrators is absolutely necessary.



## Focus on Strategic Policy-Making

Legislative bodies are most effective and are most successful when they focus on strategic activities that guide the future of their communities. Whether it is called goal setting, strategic planning or futures planning, the process of assessing need and establishing priorities is a necessary function of local government. It is a process that can be used to build citizen support, encourage efficiency, and improve productivity. [Goal Setting in Local Government, *ICMA MIS Report*, vol. 27, no. 4, April 1995]

Some observers believe that governments are driven by *past* decisions and reaction to operational issues and limitations. There is a legacy of *prior* actions that limits the community's vision about *future* possibilities. Policy is about the future of your community, whether tomorrow, next week, or years from now. Policy-making is about visions, goals, choices, and possibilities. Alignment of vision and goals with the community and its local government structures builds trust and community confidence. Limited resources go further where there is alignment and trust.

Key policy-making activities include:

- **Creating a Community Vision** This is the "big picture" for your community. A vision captures the dreams, aspirations, and hopes of your community. It is a choice of one future out of many possibilities. Important community values shape this vision. Does your community see itself as a trader in a global village? A place where diversity is cherished? A place where there is peace and harmony between the built and the natural environment? A "vision statement" could provide a benchmark against which all other local government actions are measured. If you don't know where you are going, any path will do. Communities with vision know who they are and where they are going. Some communities also develop value statements and strategic plans to help implement their vision statements. Those without vision spend considerable energy on wrong or irrelevant issues, bouncing reactively from one topic to another. In short, they cannot see where they are going.
- **Community Goals and Objectives** Community goals identify components of the community vision and provide direction for implementation. A goal statement may grow out of a difficult community problem, for example, a high crime rate. The goal is to find a satisfactory resolution to this problem by implementing policies designed to reduce crime. A goal may also be born of a desire to instill some quality that is not currently part of the community, such as economic growth. Or, a goal may grow from a desire to preserve a valued characteristic or quality that already exists, such as the preservation of small town qualities while accommodating growth. Goals are qualitative statements; objectives are quantitative and measurable.

- **Comprehensive Plan** The comprehensive plan represents the community's policy for future growth. The plan assists in the management of the city or county by providing policies to guide decision-making [*Small Communities Guide to Comprehensive Planning*, Washington State Department of Community Development, June 1993]. A majority of Washington's counties and cities prepare comprehensive land use plans under the state's Growth Management Act. Comprehensive planning usually starts with an inventory and analysis of land, followed by an analysis of population and demographics, economic conditions, amenities, physical conditions, and infrastructure to determine future needs and alternatives. Based upon an agreed amount of growth, the land-use element of the plan maps locations for future development. Zoning and development regulations limit the permitted size of these developments, and govern how various uses must relate to their neighbors. Transportation and public facilities elements of the plan address service levels, locations, and financing of infrastructure needed to support community development. These plans are powerful policy tools that address major pieces of your community's vision.
- **Local Services** Some local services are mandated by state statute. Other services, while not mandated by statute, are prudent to provide, while others are discretionary. General-purpose local governments make key decisions about which services to provide to residents, at what service level, the manner in which these services will be provided. Counties provide a broad range of services, many of which are mandated by the state as its agent. Many regional services are provided by policy choice. Not all counties, for example, provide regional transit service. For cities, the statutes require the appointment of a chief law enforcement officer. Once such an officer is appointed, there is no further guidance as to the level of police services that must be provided. Whatever level is selected is a question of policy to be deliberated and determined by the city council. Some cities contract with the county to provide police services rather than provide their own. This is a matter of policy choice, based upon desired levels of service and the costs of providing that service.
- **Budgets and Capital Facilities Plans** These address the allocation of scarce financial resources to achieve the community's vision, accomplish goals and objectives, implement the comprehensive plan, and provide services. The budget is considered one of the strongest policy-making tools. It defines the spending and service priorities for numerous other policy decisions. There is rarely enough money to do all the things that a community desires. Thus, budgets and capital facilities plans must *prioritize*. What gets funded? In what order? What does not get funded? How much will be spent to provide desired services? Long-term financial plan projections (5 to 6 years ahead) often help reveal some of the costs or consequences of seemingly "inexpensive" short-term policy decisions. The allocation of resources to competing needs is an important exercise of setting local policy. Deciding what *not* to do is also an important part of policy-making.

## Local Governance System

Goals	Organization	Fiscal	Personnel	Procedures	Information	Policy Level	Administrative Level
Vision and Values	Community	Bonds and tax levels	Service levels	Elections and initiatives	Newsletters, television and press	-----	-----
Strategies and goals	Council	Budgets and debt management	Salary and benefits	Ordinances and resolutions	State-of-the-city	-----	-----
Master work plan	Manager	Budget and finance plan	Hire and fire	Policies and procedures	Annual report	-----	-----
Department work plan	Department heads	Budget control	Training and development	Standards and benchmarks	Monthly/quarterly reports	-----	-----
Team work plan	Operation managers	Service delivery	Supervision and discipline	Operating procedures	Progress reports	-----	-----
Individual work plan	Service employees	Individual services	Personal responsibility	Job checklist	Status report	-----	-----
<b>Effectiveness</b>			<b>Efficiency</b>			<b>Control</b>	
"What"							"How"

When goals are clearly defined and assigned (goals/organization) you can determine effectiveness. When resources are clearly set and staff/contract/volunteers properly assigned (fiscal/personnel), you can measure efficiency. When rules and processes are developed and feedback and report systems (procedures/information) you can establish control without "over controlling, meddling or micro managing."

## How to Recognize "Good Policy"

Since there is usually not a "right or wrong" policy, how are good policy decisions recognized? The following qualities may assist in defining "good public policy:"

- **There Is Public Support** Usually policy adopted by a majority vote of a legislative body is "good" policy. A supermajority vote makes "great" policy. The council does not make policy in a vacuum. Councils rely on ideas from many sources, including staff, citizen's groups, advisory committees, chambers of commerce, and others. Strong council support for a policy is more likely if there is strong support in the community.
- **Policies Are Just** Good policy is fair and equitable; it does not impose disproportional impacts on interest groups. Policy decisions should be based upon due process that respects the constitutional rights of individuals. Policy-making is not always about what's popular. Sometimes it means protecting the legitimate interests of minority views too.
- **Sound Decisions Are Backed by Solid Analysis** Good policy analysis starts with clear goals and objectives, considers a range of alternatives, expresses evaluation criteria, and assesses the impacts of alternatives with respect to these criteria. Measure the consequences of policy decisions against the community's vision, values, and goals.
- **Policies Are Relevant** The decision addresses a problem or issue that is generally perceived as significant to the community.
- **Policy Can Be Implemented** The decisions are feasible for local government to implement. The adopted policy has a reasonable chance of working. There are clear assignments of responsibilities for implementation.
- **Results Are Monitored** There is always a risk that policy decisions have unintended consequences, or simply do not accomplish their goals. During the analysis phase it is useful to think about how a policy choice may fail. Good monitoring systems may provide early warning about policy failures or unintended consequences. This would enable policy-makers to alter the policy to increase effectiveness, or abandon it completely.

## Limits to Policy-Making

No one said that effective policy-making is easy. It is easier to second guess how something might have been done, than to determine *what* needs to be done. There are many challenges and hazards along the way. Public policy-making involves multiple interests, complex analysis, conflicting information, and human personalities. Listed below are some factors that make public policy a fascinating, sometimes frustrating, but absolutely essential exercise. These are listed to alert the reader about circumstances where extra care is necessary.

- Legitimate community interests have multiple and often conflicting goals. This is the essence of the policy-making challenge. For example, the business community may be motivated primarily by a profit goal in presenting its position on the comprehensive plan. Other

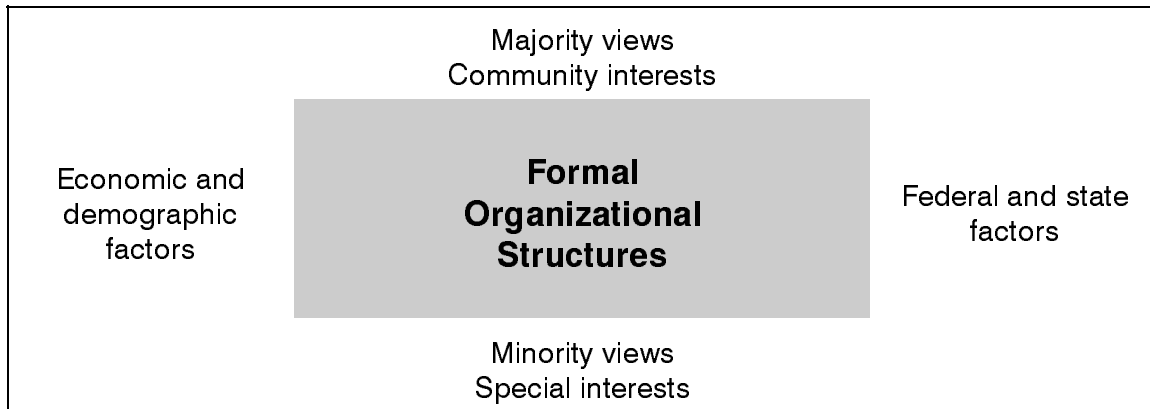


## 8 Making Policy Is Job #1 for Legislators

community interests may place a higher priority on a goal of preserving as much of the natural environment as possible. These goals may conflict.

- With multiple interest groups and centers of power, there is a tendency to "take a step in the right direction" rather than commit to significant change. Some participants are frustrated because they believe that the policy-making process should produce more dramatic changes than it usually does. On the other hand, seemingly minor changes in the short-term can have enormous long-term impacts.
- Failure to have the right information can impede decision-making. Elected officials are often faced with information overload. Too much information can create uncertainty and weaken decisiveness. When this occurs, all information becomes diluted in its persuasiveness. Decision-makers may then resort to less rationally defensive but more personally satisfying methods of decision-making. Concise, well-organized data and analyses can facilitate the decision-making process.
- Some interest groups may use analysis to rationalize choices they have already made. Research can be politicized. Some people are skilled in using statistics to prove anything. Close inspection of their analysis, however, may reveal serious flaws.
- Many forces that impact local communities are beyond local control. Local governments are subject to federal and state mandates. Income levels of individual jurisdictions depend upon job creation and retention throughout the region. Traffic congestion and air pollution transcend local community borders. Local decision-makers may have limited ability to influence an important community issue.
- It is not always clear or obvious how to implement good policy, even when there is a high level of agreement about a desired direction.
- Resources to implement policy may be limited.
- Mediation may be required to resolve issues where communities are polarized.

## External Factors & Considerations



Policy-making is not done in a vacuum. External influences surround your decision-making. Also, remember, policy abhors a vacuum. If elected officials don't or won't lead community groups or individuals with try to assume the council's role. Or staff will have to guess what the policy is and "fill in the blanks" if even with the best of intentions. Policy-setting really is the council's number one goal.

# **ROLES AND RESPONSIBILITIES**

*"Management is doing things right. Leadership is doing the right things."*

*Warren Bennis*

Constitutions, charters, statutes, and ordinances are the sources of authority for elected officials and staff in the policy-making process. A clear understanding of roles and responsibilities can increase the effectiveness of participants in the policy-making process. Whether legislative or executive, the goal is to serve the community. In addition to reviewing the powers of the legislative and executive branches of cities and counties, this section provides practical tips on how to avoid conflicts between key players who are in administrative and policy-making positions.

## **Legislative Bodies**

City, town, and county councilmembers and county commissioners are legislators. Together they constitute a legislative body which is given authority by the state constitution and state law to make local law. Local legislative authority is generally limited to what the state specifically grants to counties, cities and towns. However, code cities, charter cities and charter counties have "home rule" powers which permit them to exercise authority not specifically granted; provided that the state has not specifically prohibited that local authority.

We elect legislators to make policy decisions and enact laws on our behalf. Except through the exercise of the initiative and referendum, we do not practice direct democracy. Our political system is a representative democracy. Our representatives may come from a variety of backgrounds: farmers, teachers, doctors, lawyers, business owners, etc. The essence of the legislative process is the give and take of different interests, and the search for a compromise that is acceptable to the majority. Often there are elaborate mechanisms to involve citizens and interest groups in the policy-making process. However, in the final analysis, legislative bodies make the decisions. Those who are not satisfied with the outcome can always seek to change the representatives by voting them out of office. But they must abide by the decisions whether they like them or not.

## Executives

While mayors and city managers often develop and propose policies, their basic authority is to carry out the council's directives and to implement the policy adopted by councils. Commissioners serve both legislative and executive roles. The relationship of the executive to the legislative body varies by form of local government.

- **Mayor-Council Form of Government** Policy and administration are separated. All legislative and policy-making powers are vested in the city council. This is also true for charter counties that have county councils: King, Snohomish, Pierce and Whatcom Counties. Administrative authority is vested in a directly elected mayor or county executive. Mayors in second class mayor-council and code mayor-council cities may veto ordinances but the mayor's veto can be overruled by two-thirds vote of the council.
- **Council-Manager Form of Government** All legislative and policy powers are vested in the city council. The council employs a professionally trained administrator to carry out the policies it develops. The city manager is head of the administrative branch of government. The mayor is usually selected by the city council from among its members, although in a few larger cities (e.g. Tacoma, Spokane, Vancouver, and Olympia), the voters directly elect the mayor. The mayor's responsibilities are primarily to preside at council meetings, act as head of the city for ceremonial purposes, and for purposes of military law. The mayor votes as a councilmember and does not have any veto power. Political skills possessed by the mayor can be helpful in bringing parties together in the policy development process. Currently, no Washington counties use this organizational model.
- **Commission Form of Government** In the commission form of government one elective body includes the executive, legislative, and administrative functions of government. There are only two Washington cities (Wenatchee and Shelton) currently operating under this form of government. Thirty-five Washington counties have commission forms of government. The board of commissioners sits as a body, passes laws, and makes policy.

While much of this publication is relevant to counties, there are some factors that make the policy-making process of counties different from cities. Elected county offices are partisan; candidates declare party affiliation when they run for office. All elected city offices are non-partisan. County commissioners share power with other elected county officials such as the assessor, auditor, prosecuting attorney, sheriff, county clerk, and treasurer. There are only a handful of Washington cities that elect anyone other than mayors or council members. An extensive treatment of the

responsibilities of commissioners can be found in the *New Commissioner Handbook* (Report No. 43, Municipal Research & Services Center, September 1998).

The separation of authority between the legislative body and the chief executive in the mayor-council, county executive, and council-manager forms of government is very similar. In the mayor-council form of government, the mayor is the chief administrative officer who is responsible for all administrative functions. When separately elected, the county executive serves as chief administrative officer in those counties that have a council (*e.g.*, King, Pierce, Snohomish and Whatcom Counties). In the council-manager form, the appointed manager is the chief administrative officer. The council creates the departments, authorizes positions, and fixes compensation. The council may not direct the hiring of any employee by the chief administrative officer, although local ordinances may call for council confirmation of appointments in the mayor-council form of government. The mayor has the power to appoint and remove all appointive officers and employees consistent with the laws of the city. This authority to hire and fire may be delegated to department heads. In the council-manager form, the manager supervises city business, appoints and removes department heads and employees, executes laws, recommends activities to the council, submits reports, submits a proposed budget, and performs other duties directed by ordinance.

Mayors, county executives, city managers, and staff do not make policy decisions. However, they have *strong influence* on the policy-making process and its resultant decisions. For example, they propose budgets, oversee the studies and analyses carried out by staff, and make policy recommendations to councils. Through their ongoing contacts with key interest groups, elected and appointed chief administrative officers and department heads influence (and are influenced by) other participants in the policy development process.

## **What Staffs Need to Know about the Needs of Elected Officials**

Policy development processes are most effective and productive when key players work well together. Each party has a role to play and has defined responsibilities. Conflicts often develop when the legitimate needs and roles of one party are not understood by another. Here are some suggestions that might make the policy development process more effective:

- Elected officials have different needs than staff. To be effective, they must be responsive to the needs of their constituents. Concerns for "fairness" and "minority views" may outweigh issues of effectiveness or efficiency.
- Elected officials want to know where various constituent groups stand on an issue. This information is important in attempting to balance the conflicting values that often come into play during the policy-making process.
- Elected officials do not like surprises, particularly at the end of a long and arduous process. (Who does?) A staff member's credibility can be seriously undermined if key interests introduce relevant new information at a final public hearing before action is taken. Councilmembers will think that the staff has not done their job of getting this information considered earlier.

## 14 Roles and Responsibilities

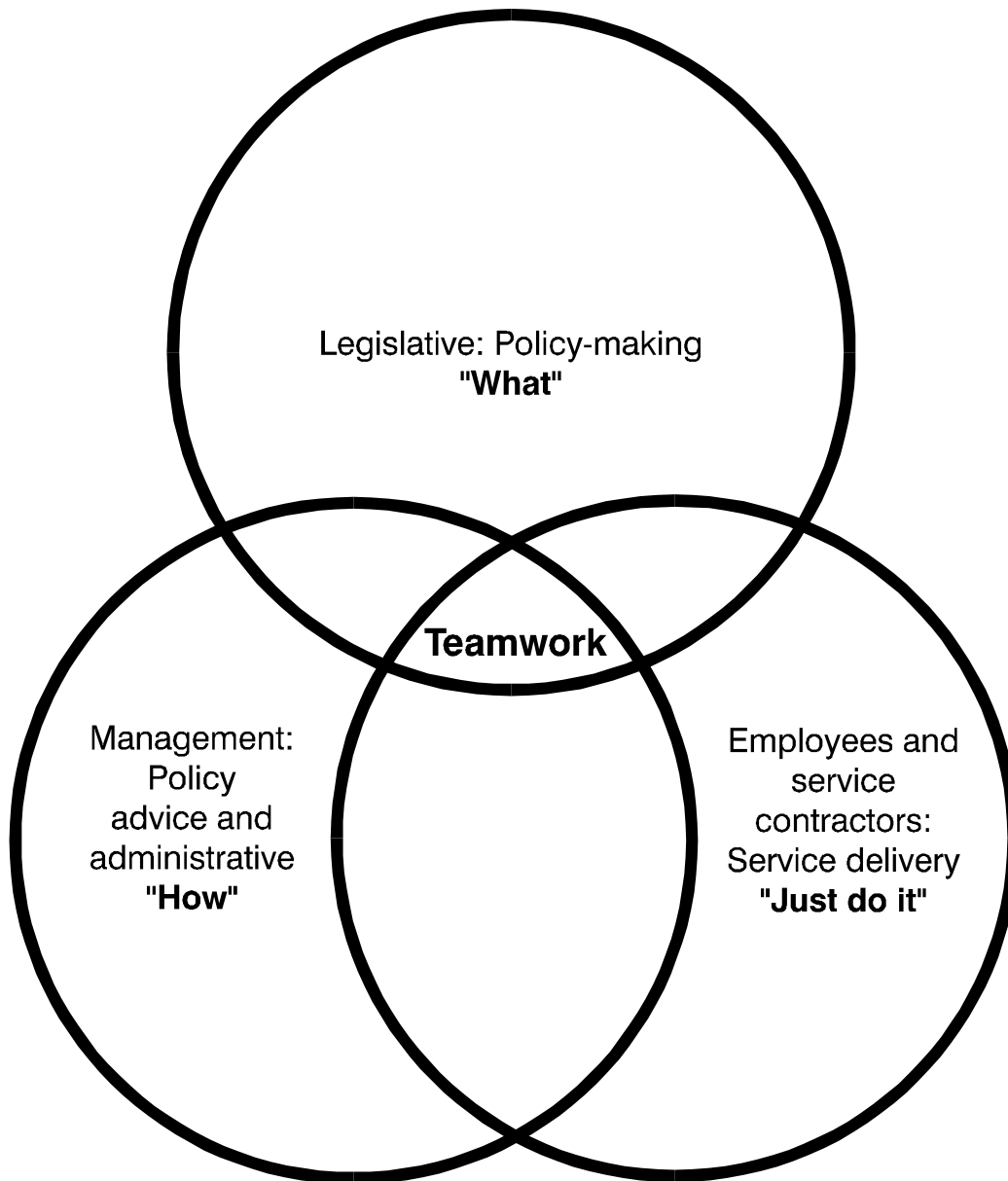
- Elected officials like to have choices. Nobody likes to feel backed into a corner where there is only one solution. A brilliant staff proposal may not carry the day if other choices were not seriously considered.
- Staff can be an enormous help by showing how compromise can be reached on thorny issues.
- Staff can make everyone on the policy/administrative team look good by sharing credit.

### **What Elected Officials Need to Know about the Needs of Staff**

- Some key staff belong to national and state associations that hold members to professional and ethical standards. For example, many city managers and administrators belong to the Washington City/County Management Association and are bound by the International City/County Management Association code of ethics. Asking staff to help on certain political matters, such as election and ballot campaigns, puts them in a difficult position. State laws also significantly limit the use of public resources for campaign issues.
- Staff will sometimes assert that "we can't do this because it violates technical standards." While these standards are legitimate attempts to address important public goals, they often do not fully recognize other community values. For example, street design standards favor the movement of traffic. If the street is not critical for the movement of large traffic volumes, there may be ways to design the street to achieve other community goals by providing wider sidewalks, bike lanes, and space for recreational and social activities. (However, access may be lost to certain categories of state or federal funds if standards are not met.) Explore these issues with staff and challenge their creativity.
- Competent staff can be a tremendous help in developing ideas, structuring good processes, and generally keeping you out of trouble. Get to know and trust key staff.
- Treat each other respectfully. Otherwise the official may not get that extra effort that can make a difference in effectiveness.

- Avoid public criticism of each other; it only makes for martyrs. If there is a legitimate concern, discuss the matter privately. If you are a councilmember, remember that you do not have the authority to direct employees. Discuss your concerns with the mayor or city manager. If on the staff, ask for policy clarification if you are not sure what was intended.
- Show appreciation for good work. Say "thanks." Share credit.

Another way to improve policy-making and decision-making is to better understand the role of team members.



# IS IT POLICY OR ADMINISTRATION?

*"All government – indeed, every human benefit and enjoyment, every virtue and every prudent act – is founded on compromise and barter."*

*Edmund Burke*

The goal of this section is to answer, through examples, the age-old question: is it policy or is it administration? The Municipal Research & Services Center (MRSC) has received numerous questions about this issue over the years. Lack of clarity or agreement about this issue is perhaps the most frequent source of conflict among local officials. There are no "black and white" answers. There will always be some overlap between policy and administration. That is why it is very important for executives, legislators, and key staff to develop ways to communicate and work together effectively.

The introduction to this report suggests that legislative bodies are most effective and successful when they focus on strategic activities to guide future development of their communities. These key policy-making activities include the development of a vision for the community, the adoption of community goals and objectives, the adoption of comprehensive plans, decisions about which programs and services will be provided by the local government, and the adoption of budgets and capital facilities plans. These are clearly policy matters.



**18** Is it Policy or Administration?

Councils and commissions have the powers to enact laws and policies consistent with state law, usually through the enactment of ordinances and resolutions. The chart below lists actions that city councils and commissions can take, followed by a brief description of the responsibility of the mayor, city manager or administrator. These also apply to county councils and commissions; however, counties have a number of independent elected officials whose functions and duties are defined by either the state constitution or state statutes.

<b>Policy</b>	<b>Administration</b>
<ul style="list-style-type: none"> <li>• Enact a budget.</li> </ul>	<ul style="list-style-type: none"> <li>• Propose budget. Spend within budgetary limits.</li> </ul>
<ul style="list-style-type: none"> <li>• Define the powers, functions and duties of officers and employees.</li> </ul>	<ul style="list-style-type: none"> <li>• Fill positions consistent with local ordinances.</li> </ul>
<ul style="list-style-type: none"> <li>• Fix the compensation of officers and employees.</li> </ul>	<ul style="list-style-type: none"> <li>• Administer payroll consistent with budget and compensation plan adopted by council.</li> </ul>
<ul style="list-style-type: none"> <li>• Establish the working conditions of officers and employees.</li> </ul>	<ul style="list-style-type: none"> <li>• Insure that proper working conditions are provided.</li> </ul>
<ul style="list-style-type: none"> <li>• Establish retirement and pension systems.</li> </ul>	<ul style="list-style-type: none"> <li>• Administer pension and retirement plan.</li> </ul>
<ul style="list-style-type: none"> <li>• Adopt ordinances regulating local affairs.</li> </ul>	<ul style="list-style-type: none"> <li>• Implement and enforce ordinances.</li> </ul>
<ul style="list-style-type: none"> <li>• Set fines and penalties for violation of ordinances.</li> </ul>	<ul style="list-style-type: none"> <li>• Collect fines and enforce penalties.</li> </ul>
<ul style="list-style-type: none"> <li>• Enter into contracts.</li> </ul>	<ul style="list-style-type: none"> <li>• Propose contracts. Manage approved contracts. Enforce contracts.</li> </ul>
<ul style="list-style-type: none"> <li>• Regulate the acquisition, sale, ownership, and other disposition of real property.</li> </ul>	<ul style="list-style-type: none"> <li>• Negotiate terms of acquisition and sale of real property; carry out acquisition and sale.</li> </ul>
<ul style="list-style-type: none"> <li>• Decide which governmental services will be provided. Adopt budgets for their provision.</li> </ul>	<ul style="list-style-type: none"> <li>• Oversee the day to day operation of programs and services provided by the local government.</li> </ul>
<ul style="list-style-type: none"> <li>• Establish public utilities.</li> </ul>	<ul style="list-style-type: none"> <li>• Manage provision of utility services.</li> </ul>
<ul style="list-style-type: none"> <li>• Grant franchise for the use of public ways.</li> </ul>	<ul style="list-style-type: none"> <li>• Enforce terms of franchise agreement.</li> </ul>
<ul style="list-style-type: none"> <li>• License, for the purpose of revenue and regulation, most any type of business.</li> </ul>	<ul style="list-style-type: none"> <li>• Administer business licenses as provided by council.</li> </ul>
<ul style="list-style-type: none"> <li>• Set tax rates and user fees consistent with state laws.</li> </ul>	<ul style="list-style-type: none"> <li>• Collect taxes and user fees.</li> </ul>
<ul style="list-style-type: none"> <li>• Approve claims against the city or county.</li> </ul>	<ul style="list-style-type: none"> <li>• Bring lawsuits, with legislative approval. Propose settlement of claims. Pay approved claims.</li> </ul>
<ul style="list-style-type: none"> <li>• Enter into agreements to accept grants and gifts.</li> </ul>	<ul style="list-style-type: none"> <li>• Propose agreement. Carry out terms of the agreement.</li> </ul>

The mayor, city manager, or county executive is the chief executive and administrator in charge of carrying out the policies set by the council and enforcing local laws. They are basically in charge of the day-to-day operation of the city or county, including the supervision of all appointed officers and employees in the performance of their official functions. The chief executive is in charge of hiring and firing all appointive officers and employees, subject, where applicable, to laws regarding civil service. Councils of first class, second class, and code cities have some authority to require confirmation of the mayoral appointments of certain officials; councils may not, however, require confirmation of firings by the mayor. Town councils do not have this power.

For the most part public agencies are *administrative*; they must follow policies, laws, budgets, and other rules. In order to prevent abuses of power and to provide predictability, administrative functions have limited flexibility or discretion. For example, the enforcement of building and land use codes are generally ministerial in nature. If applicants comply with requirements as set forth in the code, they get their permit. However, there are certain types of decisions, such as rezones, that must go to the legislative body.

On many matters, citizens will no doubt call councilmembers. In these situations, it is best to pass on the complaint (through the mayor or city manager), let staff deal with it, and report back to the councilmember on its disposition. Give the staff a chance to do their job. Treat citizen comments, complaints, or requests as feedback on basic service delivery systems. These are opportunities for service "tune-ups" as part of a continuous improvement effort.

Consistent with the doctrine of separation of powers, the council is not authorized to interfere with the chief executive's administration of government. Councilmembers may not give orders to department heads or to other employees. In council-manager cities, this prohibition is established statutorily. The council must work through the city manager on matters of city administration, except that it may deal directly with officers and employees under the manager's direction "for the purpose of inquiry." To do its job, the council needs information on how the city or county is operating. The chief executive must provide timely, useful information evenly and equally to all councilmembers – either directly or through subordinate officers and employees.

Of course, things do not always run smoothly between the council and the administration, and the line between policy and administration is imprecise in some situations. One area that is a frequent source of conflict is personnel. The council may not like a mayor's appointment to a particular position, or it may be dissatisfied with the performance of certain officers or employees. An employee may complain to and seek relief from the council about some aspect of employment. On the other hand, the mayor may believe that certain personnel policies interfere with his or her supervision of employees and hiring and firing authority. The mayor may direct that all communications with city staff go through the mayor's office. The council, in response, may feel that the mayor is unlawfully restricting its access to city personnel for information purposes.

The remedy for some of these situations may be to review the respective roles of the mayor and the council and to understand the limitations of their respective authorities. For example, if the council is not happy with a mayoral appointment, there may be nothing the council can do directly within the bounds of its authority. However, if it has the authority to confirm a particular appointment, it can reject the appointee and force the mayor to choose another. If the council does not have confirmation authority, it can express its dissatisfaction to the mayor, but it can do nothing else with respect to that particular appointment. The council may, however, provide for a detailed personnel system

establishing specific qualifications for positions, requiring publication and public posting of job opening announcements, and the like. Moreover, the mayor, at least in code cities, is required by statute to make appointments "on the basis of ability and training or experience."

Similarly, if the council feels that an officer or employee is performing poorly and should be disciplined or fired, it can say so to the mayor, but it has no power to do anything else. Although it controls the salaries paid to city officers and employees, it may not lower a salary with the purpose of causing the person holding that position to quit. A rule to follow is that the council (and the mayor) may not do indirectly what it cannot do directly.

On the issue of communication between the council and city officers and employees, the mayor may not prevent council members from gaining information although he or she could reasonably regulate the inquiry process. If councilmember inquiries unreasonably take staff away from their duties, the mayor may require those inquiries to be channeled through the mayor or a department head, if it can be done without unduly encumbering council access to information.

Another area that often provides ground for conflict is finances and budgets. For example, the mayor may not take full advantage of the budget authorized by the council. The council may authorize a certain position at a certain salary, and the mayor may decide not to fill the position or may do so at half time and half salary. The mayor may cite financial difficulties, such as revenues falling short of projections, and may conclude that the city cannot afford someone filling this position full-time. The council, on the other hand, may not agree that the conditions warrant such action or may determine that a different cost-saving measure is appropriate and should be instituted.

Resolution of this type of issue may prove particularly tricky. Although the mayor may not pay an employee less than is authorized by the council in the budget or separate salary ordinance, under certain financial circumstances, the mayor may be able to partially fill a position, thus proportionately reducing the salary for the position. Legal authority, however, is hazy on such issues. The best strategy would be for the mayor and the council to work out a mutually agreeable accommodation.

In situations where it is not clear whether the executive or the council has the authority to act, counsel of the city attorney or that of a MRSC consultant could be sought. Understanding roles is a necessary step in resolving many conflicts. When roles are not clearly defined, compromise may be in order. Statutes and case law may not provide a ready answer. All sides need flexibility to meet the challenges of effective local government that is responsive to public needs. Local government works best when local officials work well together and build relationships based on honesty and trust.

# THE POLICY-MAKING PROCESS

*"Democracy means government by discussion, but it is only effective if you can stop people from talking."*

*Clement Atlee*

There is no question that effective policy-making requires *lots of process*. But in the end, it requires decisiveness too. While citizens and interest groups value the opportunity to participate, they also expect efficiency in the process of analyzing issues and bringing them to resolution. "Democratic efficiency" may sound like an oxymoron, but it is a worthwhile goal. Drawn out, inconclusive processes wear out participants and frustrate everyone. Such processes may make citizens less willing to participate in future community activities.

In this section, the policy-making process as exercised by individual councilmembers or commissioners is outlined and described. The main focus is to highlight practical tips that can make everyone involved more effective in managing that process, participating in it, and influencing outcomes more effectively.

**Get Issue on the Agenda** A councilmember has little or no power acting alone. If there is an issue or problem that should be addressed by your city or county, it has to be put on the public agenda. Some issues are so important that there is a consensus that something must be done. However, your issue may be in competition with others for time and attention. The support of other members of the legislative body is needed to commit time and resources to study the issue. The same is true for the chief executive. A budget is needed to carry out the studies and conduct the processes needed to bring resolution to important policy issues.

There are many catalysts for new or revised public policies. An economic calamity, such as the closing of a mill in the community, might generate a need for a new economic development policy. Technological innovations, such as networked computers and the Internet, are raising a myriad of technology policy issues for local governments today. Ecological shifts brought about by dramatic growth and development threatens Salmon species, requiring governments to respond. On some issues the community may have no choice but to act because of federal or state requirements like the Endangered Species Act and the Growth Management Act. On other issues, there may be local discretion to address them or not. These policy issues will need the consent and support of other elected officials to place them on the local agenda.

The policy-maker must be prepared to explain why action is necessary and why this issue is more important than other issues that compete for time, attention, and resources. What is the problem that needs to be solved? What are the implications of not acting? What is at stake? Why is government involvement or action required? Can someone else, such as a non-profit entity, address this problem?

**Document Existing Conditions** Issues become part of the public agenda when there is a shared perception that a problem must be solved, an issue resolved, or an opportunity realized. Explain the problem and recognize that everyone does not share the same definition of problem.

Existing conditions provide a reference point against which possible actions are compared. The task of documenting existing conditions will probably be assigned to staff. Councilmembers must recognize that resources need to be budgeted for these staff activities.

**Define Goals and Objectives** Policy action requires public support, or at a minimum, a working majority of the legislative body. The development of goals is an important part of the search for agreement. Conceptually, the idea is to move from the more general to the specific: first reaching agreement on broad principles before getting to specific means.

Goals are qualitative in nature, for example:

- Create a community where people can live, work, and play in an environment that is safe, vibrant, and aesthetically pleasing.
- Preserve greenbelts and natural areas.
- Provide for the efficient and safe movement of people and goods.

Objectives are quantitative, providing yardsticks to measure goal achievement. Some examples are:

- Create 1,500 new affordable housing units by the year 2005.

- Acquire outright or purchase the development rights to preserve 1,000 acres of greenbelts by the year 2005.
- Improve intersections in the downtown so they function no worse than Level of Service E, at or near the capacity of the roadway, during morning and afternoon peak hours.

Goal development can be a time-consuming process that requires the full attention of the governing board. All members should participate. There will need to be give and take among the participants. Goals should reflect what the governing board wants to accomplish. Avoid getting too detailed. Let staff figure out how to achieve goals. Organizations cannot do everything at once. Setting goals helps prioritize where time, energy, and resources go.

**Generate Alternatives** What options are there for attaining the policy-making body's goals? It is important to consider a range of reasonable alternatives. If alternatives favored by an influential interest group are excluded, it will be very difficult to reach a decision that has strong support.

- Do not prematurely lock into one choice. That will impede your ability to build a consensus and to bring other interests over to your position.
- Be respectful of costs to government. All levels of government are expected to do more with less. This is especially true for local government. Are there low or no cost solutions? Think creatively.
- Be mindful of ongoing costs. These have to be budgeted. For example, if the city spends money to purchase land and develop a park, it also needs to pay for ongoing maintenance.
- Think of what it will take to implement your solution, including administrative costs. Policy that cannot be implemented is ineffective. The more complex a solution, the more likely it is to meet with resistance.

**Identify Key Interest Groups** This is an important step in defining criteria for evaluating alternatives. Who else cares about this issue? How will they be impacted? Will they be positively or negatively affected by various solutions? Which interest groups are logical allies? Who is likely to oppose the action(s)?

**Evaluate Alternatives** This task will likely fall mainly to staff, and will often be addressed through formal process requirements such as the preparation of environmental impact statements. Some key considerations are:

- Address the costs and consequences of doing nothing.
- Recognize that there are tradeoffs and costs to others. Anticipate criteria that are important to others. You lose credibility if they are ignored. The same weight does not have to be placed on other interests' criteria, but the real impacts cannot be ignored. In many cases, there are legal requirements to address the impacts.
- Test the sensitivity of assumptions. How would the findings and conclusions change if the assumptions were modified?

**Decide** Even if everything is done right, some decisions are hard because they address a difficult issue. A few points to review are:

- Recognize constraints, such as budgets, laws, and authority. Balance dreams with the reality of what needs to be changed. Small changes can have major impacts through time.
- Recognize that there are often more than two positions on an issue. This makes it difficult to get a majority, much less a consensus.
- Think about how alternatives might be combined into "win-win" solutions that address needs of multiple parties.
- Treat all parties with respect. Remember that even if you do not win this one, long-term relationships count.

**Implement and Monitor** Even if you have done a great job in involving all the parties, analyzing alternatives, and achieving consensus, the process is not complete. Too many well-intentioned plans sit on a shelf and collect dust. Make sure that implementation responsibilities are clearly assigned.

Policies often have unintended consequences. Monitor the implementation of policies and revise them as necessary. It is better to discover (sooner than later) that the assumptions were not correct so that early corrective action can be taken. Unintended consequences can create bigger problems down the road. Consider sunset ordinances that require formal policy review after a set time period, especially if the council embarks on an untried innovative policy direction.

# **EFFECTIVE PUBLIC PARTICIPATION AND COMMUNICATION**

*"Process is our most important product."*

*Quip from an exercise in developing a mission statement for a large Washington city.*

In Washington State's culture of open government, the process of policy-making is every bit as important as the product of that process. Effective policy-making cannot occur without solid public participation. Open communications are essential to making that process work. This section contains a collection of tips acquired through experience while participating in both successful and unsuccessful processes.

## **Communications Barriers**

Effective communications among individuals with diverse backgrounds and interests can be difficult. The following are some factors that can create barriers to effective communications. They are listed here primarily to assist in heightening awareness of possible barriers to effective communications during the policy-making process.



- **Power Needs** Legislators and interest group representatives need to show that they are doing a good job for their constituents. They have a need to forcefully represent their members and to receive credit for accomplishments. Sharing credit is one of the most important things elected officials can do to win support for their proposals. Big problems occur when the process is structured to produce solutions where one side "wins" and the other side "loses." If at all possible, insure that an influential interest group does not lose on all of its issues. Sometimes it may be necessary to broaden the scope of the overall effort in order to find a "win" for an important interest.
- **"Political Irrationality" Versus "Technical Rigidity"** Some technical staff may see political behavior as irrational. Elected officials may see staff as inflexible because they appear to hide behind the technical standards of their professions. It helps to understand the needs of the other parties to carry out an effective dialogue.
- **Different Perspectives** We see problems differently, experience the same event differently, hold different values, use different approaches to solve problems, and have different communication styles. In short, we are diverse. Any of these differences can get in the way of effective communications. Try to understand where other parties are coming from and to see things in their terms. Stephen Covey has written some excellent material on empathic communications in *The 7 Habits of Highly Effective People*. Habit 5 is "seek first to understand, then to be understood."
- **Part-Time Versus Full-Time** Most city and town elected officials are part-timers who make their living in a non-governmental occupation or profession. Part-time officials have limited time available to spend on issues that staff may be paid to address. Some elected officials have much more time available than others to spend on their mayoral or councilmember roles. Those who have less time to spend on an issue may feel at a disadvantage.
- **Technical Expert Versus Citizens** Some experts may see citizens as lacking the knowledge and skills to participate effectively. This is unfortunate since value choice is at the root of the public policy-making process. Conversely, some citizens may feel that technical experts are suspect, especially if they work for government. They may be seen as part of the established order that wants to protect the *status quo*. This too is unfortunate since experts who understand their role can assist the identification of "win-win" solutions.
- **Public Apathy and Feelings of Powerlessness** Some officials believe that the majority of citizens are distrustful and apathetic about the functions of government. That may leave them wondering about how representative the participants are. Richard Nixon had his "silent majority," whom he believed supported his policies. On the other hand, there are citizens who feel powerless to influence government; they assume that "officials won't listen" and "you can't fight city hall." The reality of the policy-making process is that those who put in thoughtful time and effort have more influence on the outcome.
- **Formal Proceedings** Rules of order are needed, although formality can get in the way of open communications. Council chambers are formal and often place legislators on a podium above citizens. This does not create an impression that a citizen can really have an influence. Public process can be designed in ways to encourage, not inhibit, participation.

## Guidelines to Improve Public Process

Formal public hearings are part of the vocabulary of public process in America. While it is necessary to conduct public hearings to meet legal requirements, these hearings should by no means be the only opportunity for citizen involvement on important policy issues.

The formal public hearing setting can create a theater atmosphere, especially if the session is videotaped for community broadcast. Legislators and interest group representatives make speeches to the camera for the benefit of those watching at home. Formal hearings often bring out the most extreme positions. Interest group leaders often feel that they need to present a harder position than they might actually be willing to accept. They have to look like strong leaders, and their "opponents" will be making equally strong statements for contrary positions.

At a hearing, there is usually little, if any room for reasonable discussion, give or take, or response to prior testimony. Usually there is a parade of speakers who come to read their prepared statements. Interest groups often feel that it is necessary to pack the place with supporters of their positions to influence legislators politically.

If this is the only means of public process, there is a high risk that the process will fail. On important public issues, there has to be solid public process before a hearing is scheduled, if there is to be any hope of reaching a solution that has a high level of community support. There are a number of techniques that can be helpful. Newsletters and other mailings can inform the community about issues, options, and the process of decision-making. Surveys can be used to assess community views and opinions about important issues. Community meetings can be structured to maximize opportunities for dialogue on important matters.

There is no one right method or one single set of techniques that guarantee success. A genuine willingness to be open, to listen, and to explore options and issues identified by the community will instill faith in the process. Citizens can sense very quickly whether their participation is really welcome. It is also important to structure and facilitate community meetings in a way that truly permits participation of interested parties.

The following guidelines can help to design a *public participation* process that has a strong chance of being effective:

- For public meetings, including hearings, prepare and distribute a printed agenda showing the purpose and objectives of the meeting, an outline of subjects to be covered, time limits, and rules for participation.
- Change physical setting of the meeting room to reduce feelings of separation and "power differences" between public officials and citizens. Sit around a table if possible.
- Involve interested parties in the process of generating alternative solutions and approaches. Do this early in the process so that promising new alternatives can be fairly addressed.
- Make sure there is plenty of opportunity for people to receive answers to questions. This usually does not happen at a hearing. Some agencies have successfully used informal "open

houses" where there is ample opportunity for community members to view illustrations of alternatives, discuss the potential impacts of alternatives, and receive answers to specific questions.

- Use small groups to involve participants. Many people are hesitant to speak out in large groups and may hold back good ideas.
- Consider the use of portable microphones and a "talk show" or town hall format.
- Listen to what participants are saying. Ask clarifying questions. Repeat what you heard to confirm the message. Use a recorder to write comments and suggestions on large sheets of paper that can be posted on the walls.
- Use good graphics and handouts to illustrate and summarize the proposal(s).
- Use a comfortable setting. Regulate room temperature so that the room is not too hot or cold.
- Schedule meetings at times and places that are convenient to those you want to involve.
- Use trained facilitators to conduct meetings if issues are especially controversial.
- And finally, provide food! There is research showing that people are less likely to express anger if fed. You need to be careful, however, about the use of public funds. It is best if you can pay for food out of a fund generated from private donations.

Conducting an effective public participation process is hard work. And it can be frustrating, especially if you think you already have all the analysis and information you need to make a decision. There can be tension between the goals of democracy and the desire to make decisions quickly and efficiently. However, a truly participatory process can be very rewarding. Decisions are far more likely to be supported, even by those who might prefer a different outcome. Good will generated by the process can provide momentum to implement a difficult decision. Your community will gain experience, knowledge, and skill at working together to create the future.

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# DO'S AND DON'TS

For Local Government Success



These Do's and Don'ts are intended to provide summary guidance related to use of electronic records and electronic devices in compliance with the Public Records Act (PRA) (chapter 42.56 RCW) and records retention law (chapter 40.14 RCW). For a more thorough analysis of these issues, please review our related guide: *Electronic Records – PRA and Records Retention Practice Tips*.<sup>\*</sup> For more information and resources also visit [www.mrsc.org/opmapra](http://www.mrsc.org/opmapra).

	Do	Don't
Agency Computer	Do use your agency computer to conduct agency business. This allows your agency to retain records appropriately and locate such records in response to a PRA request.	Don't delete records from your agency computer (or any computer) unless you're certain the records aren't public records, or the records are past their required <a href="#">record retention period</a> . (If you have any doubt about deleting records, check with your agency's legal counsel.)
Personal Computers	Do use your personal computer to remotely access your agency's file server and email server (if your agency allows for such remote access).	Don't use your personal computer to conduct agency business unless you do so by accessing your agency's server(s) remotely. If that's not possible and you use your personal computer to conduct agency business, make sure that you: <ul style="list-style-type: none"> <li>• Retain all public records with retention value; and</li> <li>• Provide those records to your agency so the agency can retain the records appropriately and make them available if a PRA request is made for such records.</li> </ul>
Agency Email Account	Do use your agency email account to conduct agency business. This allows your agency to retain its records appropriately and to locate such records in response to a PRA request.	Don't delete emails sent or received from your agency email account unless you're certain the emails aren't public records, or the emails are past their required <a href="#">record retention period</a> . (If you have any doubt about deleting emails, check with your agency's legal counsel.)

<b>Personal Email Account</b>	<p>Do forward any agency-related emails received on your personal email account to your agency email account. Do instruct the sender that you don't conduct agency business via your personal email account(s), and to send all emails related to agency business to your agency email address.</p>	<p>Don't use your personal email account for agency business, unless your agency doesn't provide agency email accounts. If you must use a personal email account for agency business, set-up a unique email account solely for agency business, clearly segregate agency-related emails from personal emails, and provide all agency-related emails to your agency so those records can be retained appropriately and made available if a PRA request is made for such records.</p>
<b>Texting on Agency Devices and Personal Devices</b>	<p>Do follow your agency policy related to texting. If your agency doesn't have a policy, make sure you're retaining all agency-related text messages for their full retention period. If you send or receive agency-related text messages via a non-agency device, provide those messages to your agency so they can be retained appropriately and made available if a PRA request is made for such records.</p>	<p>Don't text in violation of your agency's policy. Don't use texting for agency-related business without a clear understanding of how those messages are being retained by the provider (e.g., phone company) and by your agency. Text messages, like emails, can be public records that must be retained by your agency, and such records may need to be provided in response to a PRA request.</p>
<b>Voice Mail Messages on Agency Phones and Personal Phones</b>	<p>Do, if possible, capture all agency-related voice mail messages through an integrated voice mail and email system. If that's not possible, save voice mails with retention value through other means.</p>	<p>Don't delete all agency-related voice mails once you have listened to them. Like email and text messages, voice mails can be public records that must be retained by your agency, and such records may need to be provided in response to a PRA request.</p>
<b>Agency Social Media</b>	<p>Do try to post only secondary copies of content on agency social media sites. That way, the agency won't have to separately retain all of the content of the social media sites. If that's not possible, your agency should consider purchasing software that captures and archives social media sites.</p>	<p>Don't set up and use an agency social media site, and don't edit and delete content on your agency's social media site(s), without complying with records retention and PRA requirements.</p>
<b>Personal Social Media</b>	<p>Do abstain from discussing agency business via your personal social media accounts. If you post or exchange agency-related communications via your personal site, make sure you comply with records retention and PRA requirements.</p>	<p>Don't conduct agency business via your personal social media site. Agency-related records can be public records, subject to retention requirements and the PRA, even if the records are located on your personal social media site. If you're an incumbent elected official who is a candidate, don't mix your election activities with agency business via use of social media.</p>

\*DISCLAIMER: These Do's and Don'ts are meant to provide summary tips related to use of electronic records and electronic devices in compliance with the PRA and the records retention law. The tips aren't intended to be regarded as specific legal advice. Consult with your agency's attorney about this topic as well.

# OPMA – AGENCY OBLIGATIONS: A STARTING POINT

# PRACTICE TIPS

For Local Government Success



The basic requirement of the Open Public Meetings Act (OPMA) is that meetings of governing bodies be open and public. Use these practice tips to guide your agency's OPMA compliance.\* For more information and resources visit [www.mrsc.org/opmapra](http://www.mrsc.org/opmapra).

## Basic Requirements

- **All meetings open and public.** All meetings of governing bodies of public agencies must be open to the public, except for certain exceptions outlined in the OPMA. RCW 42.30.030.
- **Quorum.** Generally, a meeting occurs when a quorum (majority) of the governing body is in attendance and action is taken, which includes discussion or deliberation as well as voting. RCW 42.30.020(2) & (3).
- **Attendees.** All persons must be permitted to attend and attendees cannot be required to register their names or other information as a condition of attendance. Disruptive and disorderly attendees may be removed. RCW 42.30.040 & .050.
- **No secret ballots.** Votes may not be taken by secret ballot. RCW 42.30.060(2).
- **Adoption of ordinances.** Ordinances, resolutions, rules, regulations, and orders must be adopted at a public meeting or they are invalid. RCW 42.30.060(1).

Position in Agency	Required to Comply
Member of a governing body <ul style="list-style-type: none"> <li><input type="checkbox"/> City or Town Councilmember or Mayor</li> <li><input type="checkbox"/> County Commissioner or County Councilmember</li> <li><input type="checkbox"/> Special Purpose District Commissioner/Board Member</li> </ul>	Yes
Member of a subagency created by ordinance or legislative act, e.g.: <ul style="list-style-type: none"> <li><input type="checkbox"/> Planning Commission</li> <li><input type="checkbox"/> Library Board</li> <li><input type="checkbox"/> Parks Board</li> <li><input type="checkbox"/> Civil Service Commission</li> </ul>	Yes
Member of a committee <ul style="list-style-type: none"> <li><input type="checkbox"/> Committees that act on behalf of the governing body, conduct hearings, or take testimony or public comment</li> </ul>	Yes
Agency staff	No

## Penalties for Noncompliance

- **Actions null and void.** Any action taken at a meeting which fails to comply with the provisions of the OPMA is null and void. RCW 42.30.060(1).
- **Personal liability.** Potential personal liability of \$100 for any member of a governing body who attends a meeting knowing that it violates the OPMA. RCW 42.30.120(1).
- **Agency liability.** Any person who prevails against an agency in any action in the courts for a violation of the OPMA will be awarded all costs, including attorney fees, incurred in connection with such legal action. RCW 42.30.120(2).

## OPMA Training Requirements, Effective July 1, 2014

- Every member of a governing body of a public agency must complete training requirements on the OPMA within 90 days of assuming office or taking the oath of office.
- In addition, every member of a governing body must complete training at intervals of no more than four years as long as they remain in office.

\*DISCLAIMER: These practice tips are meant to provide summary information on basic agency obligations of the OPMA; the practice tips are not intended to be regarded as specific legal advice. Consult with your agency's legal counsel about this topic as well. May 2014

# PRACTICE TIPS

For Local Government Success



Under the Open Public Meetings Act (OPMA), to ensure that agency deliberations and other actions are conducted and taken openly, agencies are required to provide sufficient public notice of their meetings. Use these practice tips as a starting guide for OPMA notice requirements.\* *For more information and resources visit [www.mrsc.org/opmapra](http://www.mrsc.org/opmapra).*

	Regular Meetings (RCW 42.30.070)	Special Meetings (RCW 42.30.080)
<b>Definition</b>	Held in accordance with a schedule fixed by ordinance, resolution, bylaws, or other rule.	Anything other than a regular meeting. May be called by the presiding officer or a majority of the members of the governing body.
<b>Notice and Agendas</b>	<p>Effective June 12, 2014, agendas must be made available on the agency's website at least 24 hours in advance of the meeting unless the agency:</p> <ol style="list-style-type: none"> <li>1. Doesn't have a website; or</li> <li>2. Employs fewer than 10 full-time equivalent employees.</li> </ol> <p>There are no other notice requirements for regular meetings in the OPMA. However, other relevant laws apply to some local governments. For example, cities and towns are required to establish a procedure for notifying the public of the preliminary agenda for the forthcoming council meeting (although not necessarily online) as well as regarding upcoming hearings. <a href="#">RCW 35A.12.160</a>; <a href="#">RCW 35.22.288</a>; <a href="#">RCW 35.23.221</a>; <a href="#">RCW 35.27.300</a>. There are no similar requirements for counties or special purpose districts related to preliminary agendas.</p>	<p>The special meeting notice must specify the date, time, and place of the special meeting, and the business to be transacted.</p> <ul style="list-style-type: none"> <li>• <b>Personal notice.</b> Written notice must be delivered personally, by mail, fax, or e-mail at least 24 hours before the meeting to: <ol style="list-style-type: none"> <li>1. Each member of the governing body, unless the member submits a written waiver of notice in advance with the clerk, or the member is actually present at the meeting; and</li> <li>2. Each member of the news media who has on file with the governing body a written request for notice of special meetings.</li> </ol> </li> <li>• <b>Website notice.</b> Notice must be posted on the agency's website 24 hours in advance of the meeting, unless the agency: <ol style="list-style-type: none"> <li>1. Doesn't have a website; or</li> <li>2. Employs less than 10 full-time equivalent employees; or</li> <li>3. Doesn't employ personnel whose duty, as defined by a job description or existing contract, is to maintain or update the website.</li> </ol> </li> <li>• <b>Notice at agency's principal location.</b> Notice must be prominently displayed at the main entrance of the agency's principal location and the meeting site if the meeting isn't held at the agency's principal location.</li> </ul>
<b>Emergencies</b>	In an emergency situation (e.g., fire, flood, earthquake, or other emergency), a meeting may be held at a site other than the regular meeting site, and the notice requirements under the OPMA are suspended during such an emergency.	The notices required for special meetings aren't required if a special meeting is called to deal with an emergency involving injury or damage to persons or property or the likelihood of such injury or damage, when time requirements of such notice would make notice impractical and increase the likelihood of such injury or damage.
<b>Holidays</b>	Regular meetings shall not be held on holidays. If a regular meeting falls on a holiday, the meeting must be held on the next business day.	Although not specifically addressed by the OPMA, we recommend that special meetings not be held on holidays out of consideration for public participation.
<b>Business Transacted</b>	There are no restrictions on the type of business that may be transacted at regular meetings.	Final disposition cannot be taken on any matter not listed in the special meeting notice.

\*DISCLAIMER: These practice tips are meant to provide summary information on the notice requirements of the OPMA; these tips are not intended to be regarded as specific legal advice. Consult with your agency's legal counsel about this topic as well. May 2014