

RESOLUTION NO. 2017-31

A RESOLUTION relating to the Ellensburg City Council, replacing the Rules and Procedures for the Ellensburg City Council, and repealing Resolution No. 2014-26.

WHEREAS, Resolution 2014-26 adopted the "Rules and Procedures for the Ellensburg City Council ("Council Rules); and

WHEREAS, the City Council has determined the Council Rules should be updated;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Ellensburg, Washington, as follows:

Section 1. This Resolution supersedes and replaces City Council Resolution No. 2014-26, which is hereby repealed.

Section 2. The Rules and Procedures for the Ellensburg City Council, attached to this Resolution, are hereby adopted and are effective immediately upon passage of this Resolution.

ADOPTED by the City Council of the City of Ellensburg this 16th day of October, 2017.



Mayor

Attest: 

City Clerk

**City of Ellensburg
City Council Rules of Procedure
October 16, 2017**

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1. General Rules

1.1 Authority. The Ellensburg City Council hereby establishes the following procedures for the conduct of Council meetings, proceedings, and business. These procedures shall be in effect upon adoption by the Council and until such time as they are amended or new procedures are adopted in the manner provided in these rules.

1.2 Meetings to be Public. The meetings of the Council shall be open to the public with the exception of executive or exempt sessions for certain limited topics (as defined in RCW Chapter 42.30). The Council minute book shall be open to public inspection.

1.3 Quorum. A majority of four councilmembers shall be required to be in attendance to constitute a quorum at any regular or special meeting of the Council. In the absence of a quorum, the Mayor or Mayor pro tempore, at the instance of any three (3) members present, may compel the attendance of absent members.

1.4 Roll Call – Absences. Before proceeding with the business of the Council, the City Clerk or his or her deputy shall call the roll of the members, and the names of those present shall be entered in the minutes. A Councilmember may be excused from the meeting by contacting the Mayor prior to the meeting and stating the reason for his or her inability to attend the meeting. If the Councilmember is unable to contact the Mayor, the Councilmember shall contact the Mayor pro tem, the City Clerk or Deputy City Clerk, who shall convey the message to the Mayor. The Mayor shall inform the Council of the Councilmember'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 Councilmembers present, the absent Councilmember shall be considered excused and the Clerk will make an appropriate notation in the minutes. If the motion is not passed, the Clerk will note in the minutes that the absence is unexcused.

1.5 **Records of Council Proceedings.** The City Clerk shall record all business transacted at a Council meeting. In recording Council minutes, the Clerk, in addition to the names of the Councilmembers in attendance, shall record the names of all city officials or employees in attendance at the Council meeting and all persons who have addressed the Council.

1.6 **Right of Floor.** Any Councilmember desiring to speak shall be recognized by the Presiding Officer and shall confine his or her remarks to one subject under consideration or to be considered. Minutes 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.

1.7 **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 Meetings.** The City Council shall hold regular meetings on the first and third Mondays of each month at 7:00 p.m. and will adjourn no later than 11 p.m. To continue past this time of adjournment, a majority of the Council must concur. If the day fixed for any regular meeting of the Council falls upon a day designated by law as a legal or national holiday, such meeting shall be held at the same hour on the next succeeding day not a holiday. 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, 501 N. Anderson Street, unless specified otherwise by a majority vote of the Council. All regular and special meetings shall be public.

2.2 **Special Meetings.** The City Clerk, upon request of the Mayor or by a majority of the Council, shall call special meetings of the Council for the purpose of conducting official action. Notice shall be given at least 24 hours in advance as required by RCW 42.30.080. Notice may be provided to each member of the Council by telephone, e-mail, regular mail or otherwise, of the special meeting.

2.3 Study Session and Workshops. The Council may meet informally in study sessions and workshops (open to the public), at the call of the Mayor or by a majority 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 final action of the Council.

2.4 Emergency Meetings. An emergency meeting is a Special Council meeting called without 24 hour notice. An emergency meeting deals with an emergency involving injury or damage to persons or property or the likelihood of such injury or damage, when time requirements of a 24 hour notice would make notice impractical and increase the likelihood of such injury or damage. Emergency meetings may be called by the Mayor as provided by RCW 42.30.070. The Council minutes will indicate the reason for the emergency.

2.5 Executive Sessions. An executive session is a Council meeting that is closed except to the Council, City Manager, City Attorney and authorized staff members and/or consultants authorized by the Mayor. The public is restricted from attendance. Executive sessions may be held during Regular or Special council meetings and will be announced by the Mayor.

a. Executive Session subjects are limited to matters authorized pursuant to Ch. 42.30 RCW, including but not limited to considering real property acquisition and sale, public bid contract performance, complaints against public officers and employees, public employment applications and public employee evaluation, elective office appointments, and attorney-client discussions regarding agency enforcement actions, litigation or threatened litigation.

b. Before convening in executive session the Presiding Officer shall publicly announce the purpose for excluding the public from the meeting place, the anticipated time when the executive session will be concluded, and whether any action is anticipated to be taken following the executive session. Should the executive session require more time, a public announcement shall be made extending the meeting for a time certain. Should the executive session end prior to

the time specified and action is required, the Council may not take action until the specified time has lapsed.

c. At the conclusion of the executive session, if appropriate, the public meeting will reconvene to formally adjourn the meeting, for taking action on the item resulting from the executive session if properly noticed, or to continue the meeting.

2.6 Council Contact Outside an Official Meeting. Generally

Councilmembers have the same freedoms of association as any other citizen. Councilmembers must take great care when present at the same social, unofficial functions, or in any public setting to refrain from engaging in any activity which could be interpreted as de facto deliberation or action on a matter of city business.

3. Conduct of Meetings

3.1 The Mayor – Election. The presiding officer of the Council shall be the Mayor who shall be elected biennially at the first meeting of a new Council by the members from their membership or otherwise when there is a vacancy in the position. The Mayor shall assume the chair immediately after his or her election. In the absence of the Mayor, the Mayor pro tempore shall preside. In the absence of both the Mayor and Mayor pro tempore, the Council shall elect a Presiding Officer.

3.2 Call to Order. The Mayor, or in his or her absence, the Mayor pro tempore, shall take the chair precisely at the hour appointed for the meeting, and shall immediately call the Council to order. In the absence of the Mayor and the Mayor pro tempore, the City Clerk or his or her assistant shall call the Council to order, whereupon a temporary Presiding Officer shall be elected by the members of the Council present. Upon the arrival of the Mayor or Mayor pro tempore, the temporary Presiding Officer shall immediately relinquish the chair upon the conclusion of the business immediately before the council.

3.3 Preservation of Order. The Presiding Officer shall preserve strict order and decorum at all regular and special meetings of the Council, prevent attacks on personalities or the impugning of Councilmembers' motives, and confine Councilmembers in debate to the question under discussion.

3.4 **Points of Order.** The Presiding Officer 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 Presiding Officer be sustained?"

3.5 **Questions to be Stated.** The Presiding Officer shall state every question coming before the Council, announce the decision of the Council on all subjects and decide all questions of order, subject, however, to an appeal to the Council, in which event a majority vote of the Council shall govern and conclusively determine such question of order. A roll call vote may be taken on any question.

3.6 **Mayor – Powers.** The Mayor shall vote on all questions, his or her name being called last. He or she shall sign all ordinances and resolutions adopted by the Council during his or her presence. In the event of the absence of the Mayor, the Mayor pro tempore shall sign ordinances or resolutions as then adopted.

3.7 **Reading of Minutes.** Unless a reading of the minutes of a Council meeting is requested by a member of the Council, such minutes may be approved without reading if the Clerk has previously furnished each member with a copy of the minutes.

4. Order of Business and the Agenda. All meetings of the Council shall be open to the public. Promptly at the hour specified herein on the date of each regular meeting, the members of the Council, the City Clerk, City Attorney, and City Manager shall take their regular stations in the Council Chambers, and the business of the Council shall be taken up for consideration and disposition in the following order:

4.1 Flag Salute.

4.2 Call to Order – Roll Call. The Presiding Officer calls the meeting to order and will announce the attendance of Councilmembers, indicate any Councilmember who is not in attendance and whether the Councilmember has requested an excused absence. Excused absences will be handled as stated in Rule 1.4.

4.3 Proclamations. A proclamation is defined as an official announcement made by either the City Council or the Mayor.

4.4 Awards and recognitions.

4.5 Consent agenda.

a. The consent agenda is designed to contain items which are of a routine and non-controversial nature, including, but not limited to the following: minutes from Council, commission, and committee meetings; excused absence requests from Councilmembers; letters of resignation; approval of appropriations; resolutions which do not involve significant policy issues; routine contracts; labor agreements; and certain administrative actions, such as consideration of banner requests and such other items as may be requested for inclusion by Council or by the City Manager and approved by Council. Any and all items on the consent agenda, unless either removed by request of a Councilmember or by request of a member of the public and concurred with by Council, are approved by single motion and vote of the City Council.

b. Because adoption of any item on the consent agenda implies unanimous consent, any member of the Council shall have the right to remove any item from the consent agenda. Therefore, prior to the vote on the motion to adopt the consent agenda, the Presiding Officer shall inquire if any Councilmember, or any member of the public with concurrence of a Councilmember wishes an item to be withdrawn from the consent agenda. If an item is withdrawn, it shall be placed at an appropriate place on the regular agenda for the current or a future meeting, to be followed by a motion to approve the consent agenda, as amended, by the item's removal from the consent agenda.

4.6 Approval of regular agenda. The Presiding Officer may, with the concurrence of the Councilmembers by majority vote, take agenda items out of order. The agenda may be amended upon majority vote of the Councilmembers.

4.7 Petitions, protests, and communications.

4.8 Citizen comment on non-agenda issues.

4.9 Business requiring public hearings.

4.10 Introduction and adoption of resolutions and ordinances.

4.11 Unfinished business.

4.12 New business.

4.13 Miscellaneous.

4.14 Executive session.

4.15 Adjournment. The Presiding Officer shall adjourn Council meetings upon the conclusion of the agenda.

5. Agenda Preparation

5.1 **Preparation.** The City Clerk will prepare an agenda packet for each Council meeting and work session specifying the time and place of the meeting, and setting forth a brief general description of each item to be considered by the Council. The agenda is subject to review and approval by the City Manager and Mayor (or Mayor pro tempore when acting in the absence of the Mayor), either of whom may add or delete any proposed agenda item for reasons of ensuring council meeting efficiency or for reasons that are in the best interests of the City.

5.2 **Placement of Agenda Items.** An item may be placed on a Council meeting agenda by any of the following methods: 1) approval of the City Manager; 2) approval of the Mayor; 3) upon request of any Councilmember prior to preparation of the agenda; or 4) upon request of any Councilmember and approval by majority vote during the Councilmember Reports portion City Council meetings, in which case the item shall be placed on the agenda for the next regular Council meeting.

5.3 **Completion.** Agenda items will be completed by the appropriate department staff and submitted to the City Clerk for finalizing by 10 a.m. on the Wednesday prior to the following Council meeting. The “agenda report” form will be used for all items submitted for a meeting agenda of committees, regular or special meetings, and work sessions.

5.4 **Availability.** An agenda shall be prepared and provided to the Council and available to the public on the Thursday prior to each meeting. Public availability shall include posting on the website, distribution by email to an established mailing list and copies provided in the City Hall and Ellensburg Public Library lobbies.

5.5 **Agenda Retention.** The City Manager will prepare and keep current a calendar of agenda items for all Council regular and special meetings, work sessions, and committee meetings.

6. Comments and Debates

6.1 Rules of Debate. Presiding Officer May Debate and Vote. The Mayor, or such other member of the Council as may be acting as Presiding Officer, may move, second and debate from the chair, subject only to such limitations of debate imposed by these rules on all members. Neither the Mayor nor any Councilmember shall be deprived of any of the rights and privileges of a Councilmember by reason of his or her acting as the presiding officer.

6.2 Getting the Floor – Improper References to be Avoided. Every Councilmember desiring to speak shall address the Presiding Officer and, upon recognition, shall confine his or her comments to the question under debate, avoiding all personalities and indecorous language.

6.3 Interruptions. A Councilmember, once recognized, shall not be interrupted when speaking unless it is to call him or her to order, or as herein otherwise provided. If a Councilmember, while speaking, is called to order, he or she shall cease speaking until the question of order is determined, and, if in order, he or she shall be permitted to proceed.

6.4 Courtesy. All speakers, including Councilmembers and the Presiding Officer, in the discussion, comments, or debate of any matter or issue shall address their remarks to the Presiding Officer, be courteous in their language and deportment, and shall not engage in or discuss or comment on personalities, or indulge in derogatory remarks or insinuations in respect to any other member of the Council, or any member of the staff or the public, but shall at all times confine their remarks to those facts which are germane and relevant to the question or matter under discussion.

6.5 Privilege of Closing Debate. The Councilmember making the motion shall have the privilege of closing the debate.

6.6 Motion 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. It may be seconded by any member, and may be made at any time and have precedence over all other motions or while a member has the floor and shall be debatable. Nothing herein shall be construed to prevent

any member of the Council from making or remaking the same or any other motion at a subsequent meeting of the Council.

6.7 Remarks of Councilmember – When Entered in Minutes. A Councilmember may request, through the Presiding Officer, the privilege of having an abstract of his or her statement on any subject under consideration by the Council entered in the minutes. If the Council consents to the request, the statement shall be entered in the minutes.

6.8 Synopsis of Debate – When Entered in Minutes. The Clerk may be directed by the presiding officer, with consent of the Council, to enter a synopsis of the discussion on any question coming before the Council into the minutes.

7. Duties and Privileges of Citizens

7.1 Meeting Participation and Addressing the Council. Citizens are welcome at all Council meetings and are encouraged to attend and participate prior to the deliberations of the Council. Any person desiring to address the Council shall first secure the permission of the presiding officer. 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 Written Communications. Interested parties or their authorized representatives may address the Council by written communications in regard to matters then under discussion.

7.3 Citizen Comment for Matters Not on the Current Agenda. Under the agenda item "Citizen Comment on non-agenda items," citizens may address the Council on any matter not on the agenda which concerns the City's business or over which the Council has control during the Citizen Comment portion of the Council agenda subject to the following:

- a. Those persons wishing to speak are requested to sign a register maintained by the City Clerk in advance of the Council meeting.
- b. Prior to speaking, they shall first obtain recognition by the

Presiding Officer, state their name, address and subject of their comments.

c. The Presiding Officer shall then allow the comments, subject to a three (3) minute limitation per speaker, or other limitations as the Presiding Officer or Council may deem necessary. Time may not be shared among any speakers.

d. Speakers may not identify themselves as candidates for elective public office or make any statements which assist or discuss the campaign of a candidate for elective office, or discuss or campaign for or against a ballot proposition (unless the ballot proposition is being considered as part of the City Council agenda item).

e. No action will be taken by the Council at the meeting during which the subject is introduced.

7.4 Addressing the Council After Motion Made. After a motion is made by the Council, no person may address the Council without first being recognized by the Presiding Officer.

7.5 Manner of Addressing the Council – Time Limit. Each person addressing the Council shall stand and give his or 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 or her remarks to five (5) minutes on a matter subject to a hearing, or three (3) minutes otherwise.

7.6 “Out of Order” Comments. Any person making personal, impertinent or slanderous remarks or who shall become boisterous while addressing the Council shall be forthwith, by the Presiding Officer, barred from further audience before the Council, unless permission to continue is granted by a majority vote of the Council. All remarks shall be addressed to the Council as a body and not to any member thereof. No person other than the Councilmember having the floor shall be permitted to enter into any discussion, either directly or through a member of the Council, without the permission of the Presiding Officer. No question shall be asked of a Councilmember except through the Presiding Officer.

7.7 Enforcement of Decorum. At the request of the Mayor or Mayor pro tempore, the Chief of Police or such member or members of the Police Department shall be Sergeant-at-Arms of the Council meetings. The Sergeant-at-Arms shall carry

out all orders and instructions given by the Presiding Officer for the purpose of maintaining order and decorum at the Council meetings.

8. Council Actions. The following actions may be considered at Council meetings:

8.1 **Ordinances.** "Ordinances" are legislative acts or local laws. They are the most permanent and binding form of Council action and may be changed or repealed only by a subsequent ordinance.

8.2 **Resolutions.** "Resolutions" are adopted to express Council policy or to direct certain types of administrative action. They have the same effect as a motion, but in a written form. A resolution may be changed by adoption of a subsequent resolution.

8.3 **Proclamations.** "Proclamations" are issued solely under the Mayor's authority. It is not required that they be read or presented at a Council meeting.

8.4 **Motions.** "Motions" are official Council actions which do not require prior documentation in writing. They often are the Council authorizing action (e.g., signing an agreement by the Mayor) or to provide direction to staff to prepare an item for future consideration.

8.5 **Protests of Council Action.** Any Councilmember shall have the right to have the reasons for his or her dissent from, or protest against, any action of the Council entered in the minutes.

9. Ordinances, Resolutions and Motions.

9.1 **Preparation of Ordinances.** All ordinances shall either be prepared by the City Attorney or submitted to the attorney for review prior to presentation to the Council.

9.2 **Prior Review by Administrative Staff.** All ordinances and contract documents shall, before presentation to the Council, have been approved as to form and legality by the City Attorney and shall have been reviewed for administration by the City Manager or the Manager's authorized representative, where there are substantive matters of administration involved.

9.3 Introducing for Passage or Approval.

a. Ordinances, resolutions, and other matters or subjects requiring action by the Council must be introduced and sponsored by a member of the Council; provided, however, such items may be presented to the Council by the City Manager or City Attorney, or such City staff as may be designated by the City Manager. Any Councilmember may assume sponsorship of an item of business submitted by the City Manager or City Attorney by moving that it be introduced; otherwise, the item shall not be considered.

b. No ordinance shall be put on its final passage on the same day on which it was introduced, unless this rule is waived as provided by Rule 9.5 and not otherwise prohibited by state law from final passage in a single meeting.

c. All ordinances shall have two separate readings, each of which readings may be accomplished by a reading of the title paragraph only: provided, however, any or all of the readings may be required to be accomplished by a reading of the full text of the proposed ordinance, if the rules are waived as provided by Rule 9.5 to require such readings of the full text. When such a reading of the full text is required, upon a vote of a majority of the Council members present, it shall not be necessary to read excessive detail set forth in a particular ordinance, including but not limited to legal descriptions of land areas, and in lieu thereof an oral statement summarizing the contents so omitted may be made by the Mayor or the presiding councilmember, or by the City Clerk or other recording secretary if so directed by the Mayor or such presiding councilmember.

d. No ordinance shall relate to more than one subject and that subject shall be clearly summarized in its title paragraph. No ordinance or section thereof, or City Code section, shall be amended unless the title paragraph of the amendatory ordinance indicates that the ordinance, or a part thereof, is amendatory.

e. The vote on amendments to a proposed ordinance may occur at any time prior to its final adoption; provided, that in the case of any ordinance which under state law cannot be adopted at the same meeting in which it is introduced, the ordinance as amended shall not be finally voted upon until the next regular council meeting.

f. All ordinances introduced for the purpose of amending, in whole

or in part, any existing City Code title, chapter, section, or subsection, shall state the number of such provisions, together with a reference to the ordinance or ordinances and the sections thereof from which the code provisions were most recently codified. Any such amendatory ordinances shall state how the pertinent City Code provisions shall be amended to read thereafter, and any so stated amended language of any such code provisions shall be deemed and shall constitute sufficient compliance with any other statutory or ordinance requirement that all ordinances, or sections or subsections thereof be set forth in full.

9.4 Resolution. A resolution may be approved on the same day it is introduced. While it is not necessary to have the title of a resolution read aloud, Council may invoke the two reading procedures described above to facilitate public understanding and/or comment on the resolution. If Council invokes the two reading procedures, a Councilmember may request that the entire resolution or certain sections be read, and such request shall be granted and the City Clerk shall read as requested.

9.5 Voting and Motions.

a. **Consensus Voice Votes.** When a formal motion is not required on a Council action or opinion, a consensus voice vote will be taken except that any Councilmember may require the vote of each Councilmember be recorded. The Presiding Officer will state the action or opinion. The Council as a group will indicate concurrence or non-concurrence. Silence of a Councilmember during a voice vote shall be recorded as a vote with the prevailing side, except where such a Councilmember abstains because of a stated conflict of interest or appearance of fairness.

b. **Motions.** No motion shall be entertained or debated until duly seconded and announced by the Presiding Officer. The motion shall be recorded and, if desired by any Councilmember, it shall be read by the Clerk before it is debated and, by the consent of the Council, may be withdrawn at any time before action is taken on the motion.

c. **Votes on Motions.** Each member present shall vote or abstain on all questions put to the Council except on matters in which he or she has a conflict

of interest. If a conflict of interest exists, such member shall disqualify him or herself prior to any discussion of the matter and shall leave the Council Chambers. A roll call vote shall be taken on the adoption of all ordinances and on motions to suspend rules. The order of voting shall be alphabetically according to the surnames of the Council members, except that the Mayor or Mayor pro tempore, if presiding, shall vote last.

a. **Abstention from Vote.** Any Councilmember who abstains from voting will not have his or her abstention counted or tallied with the votes of the Council on the question or matter under consideration, which must pass by a majority of the those Councilmembers who voted.

9.6 Filing with Clerk. All reports, petitions, ordinances and resolutions shall be filed with the Clerk and entered into the minutes.

9.7 Waiver of Rules/Effect. Except as otherwise provided by law, any rule established by this chapter may be waived upon an affirmative vote of five members of the City Council. No action taken by a Councilmember or by the Council which is not in compliance with these rules, but which is otherwise lawful, shall invalidate the such Councilmember's or Council action, or be deemed a violation of the oath of office, misfeasance or malfeasance. These rules do not grant rights or privileges to members of the public or third parties.

10. Creation of Committees, Boards and Commissions.

10.1 Citizen 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 Ellensburg City Code.

10.2 Types of Committees. There shall be two types of committees in the City of Ellensburg:

a. **Standing Committees.** Such committees are established to conduct business delegated by the legislative body and may be authorized by either state statute or city ordinance. An example would be the Utility Advisory Committee.

b. **Citizen Advisory Committees.** Such committees are formed to

promote citizen participation on a particular subject and provide guidance on community views on a subject.

c. Special Committees. All special committees shall be appointed by the Presiding Officer, unless otherwise directed by the Council.

10.3 Membership and Selection. Membership and selection of members shall be as provided by the Council if not specified otherwise in the Ellensburg City Code or state law. The Mayor makes all other appointments, subject to confirmation by the City Council, at an open public meeting. No committee so appointed shall have powers other than advisory to the Council or to the mayor except as otherwise specified in the Ellensburg City Code or state law.

10.4 Attendance.

a. An aggregate of five absences for any committee, board or commission member per calendar year will be permitted. An excess of five unexcused absences results in the member forfeiting his or her office, subject to the provisions of Rule 10.5.

b. No more than three consecutive member absences from regularly scheduled meetings will be permitted, with any excess absences resulting in automatic forfeiture of office, subject to the provisions of Rule 10.5, unless such consecutive absences are excused by the board or commission in an open public meeting.

10.5 Removal of Members of Committees, Boards and Commissions.

The Council will confirm the removal of any committee, board or commission member pursuant to Rule 10.4, and may remove any other member of a committee, 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).

10.6 Formal Reports of Committee, Boards and Commission. All committees, boards and commissions shall make their formal reports in writing.

11. Internet & Electronic Resources – Equipment Use.

11.1 Policy. It is the policy of the City Council that Internet and electronic resources equipment use by Councilmembers shall conform to and be consistent with the requirements of City of Ellensburg Personnel Policies Manual Section 9.6, "COMPUTER SYSTEM, INTERNET AND E-MAIL USE POLICIES," adopted hereby and incorporated herein by this reference.

11.2 Use of Electronic Communication and Internet during Council Meetings. Councilmembers will avoid accessing, responding to, or sending any electronic message (text, e-mail, instant message, social media etc.) during Council meetings, whether such communication involves a citizen or other Councilmember. Such communication could be construed as inviting or receiving public comment, or engaging in a non-public discussion, regarding Council business, which should be conducted in an open meeting. Likewise, Councilmembers will avoid any browsing of the Internet of non-City business during Council meetings in order that Council's full attention can be given to the topic at hand.

11.3 Public Records. All letters, memoranda, and interactive computer communication involving City Councilmembers and members of advisory boards and commissions, the subject of which relates to the conduct of government or the performance of any governmental function, with exceptions stated by the Public Records Act (Ch. 42.56 RCW), are public records.

11.4 Open Public Meetings. In most cases, the Washington Open Public Meetings Act (OPMA) applies to electronic communications, which can include e-mail, instant messaging, texting or other methods that allow electronic interaction. Interactive e-mail or text discussions among a quorum of a governing body, whether shared concurrently or serially, regarding a matter which will come to the body for a vote is a "meeting" under the OPMA. The same result would apply to an interactive discussion among a quorum of Councilmembers conducted in any electronic format. Further, electronic communication should not be used to form a collective decision of the Council.

11.5 The Appearance of Fairness Doctrine. The Appearance of Fairness Doctrine applies if an electronic communication to or from the Mayor or Councilmembers relates to a quasi-judicial matter that will come before Council for a

decision (e.g., appeals from land use hearing examiner decisions). As with any ex parte communication about a quasi-judicial matter, the Mayor or Councilmember who receives the e-mail should:

- a. Advise the sender that on advice of the City Attorney, s/he may not comment outside a public meeting on a pending matter before Council and that the sender's e-mail will be included in the public record on the matter.
- b. Immediately forward the communication to the City Manager for inclusion in the public record of the matter.
- c. Disclose on the record in the public hearing or meeting on the matter that the communication has been received and is in the record.

11.6 Electronic Communications.

a. Electronic communication should be used cautiously when seeking legal advice or to discuss matters of pending litigation or other confidential City business. In general, electronic communication is discoverable in litigation, and even deleted electronic communication is not necessarily removed from the system. Confidential electronic communications should not be shared with individuals other than the intended recipients, or the attorney-client privilege protecting the document from disclosure may be waived.

b. As a cautionary note, if an elected public official uses his or her personal home computer to send electronic communications dealing with City business, the electronic communications and electronic records may be subject to discovery demands and public disclosure requests. That possibility amplifies the need for caution in how one uses electronic communication for City business.