

**THE COUNCIL RULES
FOR THE CITY OF SALEM**

Revised January 2012

COUNCIL RULES FOR THE CITY OF SALEM

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COUNCIL RULES FOR THE CITY OF SALEM

Rule 1: Robert's Rules Adopted. Unless otherwise provided by law or modified by these rules, the procedure for Council meetings shall be governed by Robert's Rules of Order, 10th Ed. The Council has an obligation to the citizens to be clear and simple in its procedures and in the consideration of the questions coming before it. Therefore, Councilors should avoid invoking the finer points of parliamentary procedure when such points serve only to obscure the issues before the Council as a whole, and confuse the audience at public meetings and the citizens in general. (Resolutions 87-29; 96-83; 2002-151; 2004-77; 2011-46)

Rule 2: The Presiding Officer.

(a) The Mayor. The Mayor shall preside at all meetings of the Council and shall be the recognized head of the City for all ceremonial purposes. The Mayor shall have all duties and privileges of any Councilor, and shall not be denied any right or privilege by reason of the Mayor's position as Presiding Officer.

(b) Council President. At the first meeting of each calendar year, the Council shall elect a president from its membership. In the event of the Mayor's absence from any Council meeting, the Council President shall act as the Presiding Officer. Whenever the Mayor is unable, on account of absence, illness or other cause, to perform the functions of the office, the Council President shall act as Mayor Pro Tem.

(c) Temporary Chairman. In event of the absence of the Mayor and Council President, the City Attorney shall call the Council to order and call the roll of the members. If a quorum is present, those Councilors present shall elect, by majority vote, a Temporary Chairman for that meeting. Should the Mayor or Council President arrive, the Temporary Chairman shall relinquish the chair immediately upon the conclusion of the item of business then in consideration before the Council.

(d) Privileges Not Affected by Status. The Presiding Officer may move, second and debate from the chair, subject only to such limitations of debate as are by these rules imposed on all members, and shall not be deprived of any of the rights and privileges of a Council member by reason of acting as the Presiding Officer. (Resolutions 87-29; 2004-77)

Rule 3: City Attorney to be the Parliamentarian. The City Attorney shall be the Parliamentarian, and shall advise the Presiding Officer on any questions of order. (Resolution 2004-77)

Rule 4: Council Meetings.

(a) Regular Council Meetings. The Council shall hold two regular meetings per month. All meetings shall be evening meetings, to be held on the second and fourth Monday of each month; provided, however, during the month of December, the regular meetings shall be held on the first and second Monday; and provided, further, that any regular meeting may be moved to another Monday in the month by majority vote of the Council. Meetings may be

called to order before or after meetings of the Urban Renewal Agency for the City of Salem and the Salem Housing Authority, but shall adjourn no later than 10:00 p.m. In the event a regularly scheduled meeting falls on an official holiday, the meeting shall be held at the same hour on the next following day which is not a holiday.

(b) Special Meetings and Work Sessions. Special meetings and work sessions may be called by the Presiding Officer, by request of any five Councilors, or by the City Manager. Notice shall be given to each Councilor, the City Manager, and the business office of each local newspaper and radio and television station which has on file a written request for notice of special meetings, and may be delivered by mail, by electronic facsimile (FAX), or by personal delivery. To the greatest extent practicable, special meetings should be held on the third Monday in the month. Work sessions should be scheduled on the second and fourth Mondays in the month.

(c) Executive Sessions. Executive sessions may be called by the Presiding Officer, by the request of five Councilors, the City Manager or the City Attorney. Only Council members, the City Manager, and persons specifically invited by the Council or the City Manager shall be allowed to attend executive sessions. Representatives of recognized news media may attend executive sessions, other than those sessions during which the Council conducts deliberations with persons designated to carry on labor negotiations. No matter discussed during executive session may be disclosed by any person present during such session.

(d) Location of Meetings. Council meetings shall be held within the jurisdictional boundaries of the City. Work sessions may be held outside the City limits, if no deliberations toward a decision are made. Inter-jurisdictional meetings may be held outside City limits, but should be as close to Salem as practical. No Council meeting shall be held at any place where discrimination on the basis of an individual's race, religion, color, sex, national origin, ethnicity, marital status, familial status, age, sexual orientation, source of income or disability, is practiced. For this purpose, meetings do not include visitations or attendance at any national, regional, or state association to which the Councilor belongs.

(e) Notice of Regular Meetings, Special Meetings, Work Sessions, and Emergency Meetings. Advance notice of at least 24 hours shall be provided for all regular and special meetings, work sessions, and executive sessions. In the case of emergency meeting or when a state of emergency has been declared, notice appropriate to the circumstances shall be provided and reasons justifying the lack of 24 hour notice shall be included in the minutes of such meeting. Notice for all meetings shall include written notice to all news media which requested notice.

(f) Public Attendance. Except for properly called executive sessions, all meetings and work sessions shall be open to the public. (Resolutions 87-29; 92-41; 93-137; 94-43; 98-206; 99-44; 2000-61; 2009-35)

Rule 5: Order of Business and Agenda.

(a) Order of Business. The order of business for all regular meetings of the Council shall be as follows; provided, however, that when it appears to be in the best interest of the public, the order of business may be changed for any single meeting by two-thirds vote:

- (1) Opening exercises (includes call to order, roll call, pledge of allegiance, announcements, approval of additions and deletions to the agenda, proclamations, ceremonial presentations, and Council comment);
- (2) Public comment (agenda items);
- (3) Consent calendar (includes approval of minutes, adoption of routine resolutions, and items of business requiring Council action);
- (4) Public hearings (includes deliberations, and deliberations from hearings held over from previous meetings);
- (5) Special orders of business (includes consideration of items deferred from the consent calendar; any action item which requires a selection among options; consideration of matters of special importance to the Council; management reports; formal presentations by city boards, city commissions, city committees; and formal presentations by outside agencies providing services or engaged in other activities with the City);
- (6) Unfinished business (any business held over from a previous meeting, other than public hearings and ordinances, which are placed under public hearings and ordinances);
- (7) Information reports (items that require no Council action);
- (8) Ordinances;
- (9) Public comment (other than agenda items);
- (10) New business (Mayor and Councilor items); and
- (11) Adjournment.

(b) Agendas. The Clerk of the Council shall prepare an agenda for every regular and special meeting. Agendas and informational material for regular meetings shall be distributed to the Council no later than the Friday preceding the meeting. No Council approval shall be required for an agenda of any regular meeting; agendas for special meetings shall be approved by majority vote of the Council.

(c) Placement of Items on the Agenda.

(1) The City Manager may place routine items and items referred by staff on the agenda without Council action.

(2) Any item placed on the consent calendar or matter raised during public comment may be placed on a subsequent agenda as a “special order of business” upon majority vote of the Council.

(d) Removal of Items from the Agenda. The City Manager may remove any item on the consent agenda, any item of old business, any resolution, or any ordinance placed for first reading from the agenda at any time prior to the time the meeting is convened.

(e) Postponement of Consideration Prior to the Meeting. Any Councilor may request that consideration of an agenda item be postponed to a subsequent meeting, if the Councilor is unable to attend the meeting during which the item has been scheduled for consideration. Any Councilor requesting postponement of consideration shall submit a request to the City Manager in writing as early as possible. The request to postpone should be honored unless the matter must be acted upon at that meeting due to deadlines or other matters of timing.

(f) Proclamations and Awards. Special recognition, awards given to or by the City of Salem, and proclamations which serve to encourage and educate the community may be placed on the agenda at the discretion of the Mayor, and, if placed on the agenda, may be included under opening exercises, items of special consideration, or information reports. Requests for proclamations should be submitted in writing to the Mayor.

(g) Council Comment. The Mayor and each Councilor shall have the opportunity to make comment on any item of public interest during the opening exercises. The Mayor shall have a maximum of five minutes, and each Councilor shall have a maximum of two minutes for Council comment.

(h) Consent Calendar. In order to expedite the Council’s business, the approval of minutes, and other routine agenda items shall be placed on the Consent Calendar. All items on the Consent Calendar will be approved by a single motion, unless the item is pulled for further consideration. Any item on the Consent Calendar may be removed for separate consideration by any member of the Council. For the purposes of this rule, separate consideration means any proposal to adopt a different course of action than that recommended in the staff report, or a determination that debate on a proposed course of action is deemed desirable, any questions to staff on any item, and any item where a Councilor must declare a conflict of interest.

(i) Council Notification of Land Use Decisions. For purposes of Council call up under SRC 300.1050, notification of land use decisions shall be made by posting on the City’s website, and by notification by listserv. Any member of the public may request to be placed on the listserv. Land use chairs of neighborhood associations shall be placed on

the listserv. Posting shall occur no later than the Wednesday preceding the meeting where an abstract of the decision is placed on the agenda. Call-up of a decision shall be made on the first regular Council meeting following Council notification of the land use decision pursuant to this subsection.

(j) Special Orders of Business. Agenda items that are deferred from the Consent Calendar; business that requires the selection from among options or that are of special importance to the Council; management reports of special importance as determined by the City Manager; formal presentations by city boards, city commissions, city committees, neighborhood associations; and formal presentations by outside agencies providing services to or for, or engaged in other activities with the City, will be placed under Special Orders of Business. Items removed from the Consent Calendar shall have priority over any other Special Order of Business.

(k) Public Hearings. Unless otherwise required by law or Council motion, public hearings shall be scheduled by the City Manager, and may be rescheduled without further action by the Council.

(l) New Business. The agenda shall provide a time when the Mayor or any Councilor may bring before the Council any new business that the Mayor or Councilor feels should be deliberated upon by the Council. Any Councilor requesting an item of new business be placed on the agenda should submit the request to the City Manager, in writing, not later than 9:30 a.m. the Wednesday preceding the Council meeting. Any item of new business provided after this deadline as an addition to the agenda shall not be acted upon at the meeting where first presented. (Resolutions 87-29; 92-41; 94-42; 97-125; 98-9; 98-206; 2001-19; 2002-81; 2009-35; 2009-95; 2011-46; 2012-2)

Rule 6: Communications.

(a) To be included in the agenda packet, communications to the Mayor and Council concerning matters on the agenda must be submitted to the City Recorder no later than 5:00 p.m. on the Wednesday prior to the date of the Council meeting where the matter will be considered. To be included as an addition to the agenda, such communications must be submitted to the City Recorder no later than 5:00 p.m. on the date of the meeting. After 5:00 p.m. on the date of the meeting, communications must be submitted at the Council meeting to be included in the record. Any Councilor may, by motion, have a communication concerning a matter on the agenda that does not meet the timelines in this subsection included in the record. Not less than fifteen copies shall be provided by the person submitting a communication at a Council meeting, to provide a copy to the Mayor, each Council member, the City Manager, the City Attorney, the Deputy City Manager, the department head responsible for the particular agenda item, and the City Recorder. The copies should be submitted to the City Recorder for distribution at the beginning of the meeting, and will be distributed to the Council members prior to the first period for public comment. If the communication is not submitted to the City Recorder, it shall not be included in the record for the proceeding.

(b) Anonymous and unsigned communications shall not be introduced in Council meetings.

(c) Unsolicited communications to the Mayor and Council concerning matters not on the agenda shall be forwarded to the Council in the agenda packet, but shall not be itemized as an agenda item. Any unsolicited communication which raises a matter of general interest to the City may be brought up at the meeting under new business and placed on a subsequent agenda for further action.

(d) The City Manager may, in the City Manager's discretion, bring any matter raised by an unsolicited communication to the attention of the Council as an agenda item, provided that such communication is accompanied by a staff report setting forth the reason the matter should be considered by the Council, and making a recommendation for Council action. (Resolutions 87-29; 97-125; 98-206; 2001-19; 2012-2)

Rule 7: Minutes.

(a) Minutes of all regular, special meetings and emergency meetings shall be comprised of a "final action agenda" and a recording of the meeting in electronic form. Minutes of all executive sessions and work sessions shall be comprised of a recording of the meeting in electronic form. Minutes shall be maintained in the office of the City Recorder.

(b) The "final action agenda" shall contain the following information:

(1) The date, time and place of the meeting or session;

(2) The names of the members recorded as either present or absent;

(3) Any motions, and amendments thereto, a record of all votes taken, and general description of all matters considered during the meeting.

(c) Approval of the minutes shall not require review of the electronic recording of the meeting or reading of the final action agenda in open meeting prior to approval. The final action agenda may be revised at any time by the City Recorder to correct spelling, numbering and other technical defects. Prior to approval, any member may request the amendment or correction of the final action agenda to accurately reflect the substance of any motion, amendment or matter considered during the prior meeting. If objection is made by any Council member to such amendment or correction, the amendment or correction shall only be made upon majority vote of the Council. (Resolutions 87-29; 2004-77)

Rule 8: General Decorum.

(a) **Presiding Officer.** The Presiding Officer shall preserve decorum and decide all points of order, subject to appeal to the Council.

(b) Councilors. Councilors shall preserve order and decorum during Council meetings, and shall not, by conversation or other action, delay or interrupt the proceedings or refuse to obey the orders of the Presiding Officer or these Rules. Councilors shall, when addressing staff or members of the public, confine themselves to questions or issues then under discussion, shall not engage in personal attacks, shall not impugn the motives of any speaker, and shall at all times, while in session or otherwise, conduct themselves in a manner appropriate to the dignity of their office.

(c) Staff and Public. Members of the administrative staff, employees of the City and other persons attending Council meetings shall observe the same rules of procedure, decorum and good conduct applicable to the members of the Council.

(d) Removal of Any Person. Any person who makes personal, impertinent, slanderous or unauthorized remarks or who becomes boisterous while addressing the Council or attending a Council meeting shall be removed from the room if the Sergeant-at-Arms is so directed by the Presiding Officer. In case the Presiding Officer should fail to act, any member of the Council may obtain the floor and move to require enforcement of this rule; upon affirmative vote of the majority of the Council present, the Sergeant-at-Arms shall be authorized to remove the person or persons, as if the Presiding Officer so directed.

(e) Enforcement of Decorum. The City Manager, or such member or members of the Salem Police Department as the City Manager shall designate, shall serve as the Sergeant-at-Arms of the Council meetings and shall carry out all orders and instructions given by the Presiding Officer for the purpose of maintaining order and decorum. (Resolution 2004-77)

Rule 9: Rules of Debate.

(a) Every member desiring to speak shall address the Chair, and, upon recognition by the Presiding Officer, shall confine himself or herself to the question under debate, avoiding all personalities and indecorous language.

(b) A member, once recognized, shall not be interrupted when speaking unless it is to be called to order, or as herein otherwise provided. If a member, while speaking, be called to order, he shall cease speaking until the question of order be determined, and, if in order, he shall be permitted to proceed.

(c) The Council member moving the adoption of an ordinance or resolution shall have the privilege of closing the debate.

(d) Any Councilor may call for the question at any time. The Presiding Officer shall then ask whether any Councilor has further comments, and, if no Councilor requests the floor, vote shall be immediately taken. (Resolutions 87-29; 2004-77)

Rule 10: Consideration of Business.

(a) **Quorum.** A majority of the Council shall constitute a quorum to do business. A lesser number may meet and adjourn from time to time and compel the attendance of absent members.

(b) **Voting.** Upon demand by any member of the Council, a roll call vote shall be made upon any question before the Council. No Councilor may explain the reasons for his or her vote during the roll call. The order in which roll call votes is taken shall rotate by ward from one roll call vote to the next, with the Presiding Officer voting last in each roll call vote.

(c) **Procedure Generally.** When the question has been called for, the Presiding Officer shall first ask for the Ayes followed by the Nays. After a vote has been taken, the Presiding Officer shall announce the results of the vote, and, unless the vote is unanimous, the vote of the members by name.

(d) **Voting Required.** Every member present when a question is called shall vote either Aye or Nay, unless the Council, by unanimous consent, excuses a member for a special reason or unless a member has a conflict of interest under applicable law, in which case no consent is required. There shall be no debate on such a request. Unless excused pursuant to this rule, if any member refuses or fails to vote, and the result of such refusal creates a tie, that member's vote shall be counted as an aye; in all other situations, that member's vote shall be counted with the majority. If a member is excused from voting as provided by this rule, that member may be counted toward making up a quorum, but shall not be counted toward the minimum number of votes required to pass or reject a motion.

(e) **Minimum Votes Required in Certain Situations.** The passage of any ordinance shall require the affirmative vote of at least a majority of the whole membership of the Council.

(f) **Ayes and Nays.** The results of every vote, and the vote of each member by name, shall be entered upon the record.

(g) **Tie Vote.** In case of a tie in votes on any proposal, the proposal shall be considered lost. If a tie vote occurs in the appeal of any quasi-judicial matter, the decision by the lower level decision maker shall be affirmed. (Resolutions 87-29; 2004-77; 2011-46)

Rule 11: Motion to Reconsider. A motion to reconsider any action taken by the Council may be made no later than the close of the next following regular meeting of the Council. Such motion must be made by one of the prevailing side, but may be seconded by any member, and shall have precedence over all other motions or while a member has the floor and shall be debatable. (Resolutions 87-29; 2004-77)

Rule 12: Substitute Motions. A substitute motion is a motion which proposes to replace a pending main motion in its entirety. If seconded, debate on the relative merits of the main motion and the substitute motion shall be in order. If approved, a substitute motion shall stand as the main motion,

and the original main motion shall be deemed to have been rejected; if the substitute motion is rejected, vote shall proceed to the main motion. (Resolution 2004-77)

Rule 13: Councilors May File Protests Against Council Action. Any Councilor 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. (Resolutions 87-29; 2004-77)

Rule 14: Council Requests of Staff. A Councilor who desires major policy, ordinance research, or other major staff assistance must first raise the issue at a regular meeting. If the request of staff requires more than one hour of staff time, the request shall be approved by the Council as a whole before staff time is utilized. Councilor requests that involve less than one hour staff time may be approved by the City Manager without Council action. (Resolution 2004-77)

Rule 15: Public Comment.

(a) Two periods for public comment will be reserved for every regular meeting of the Council. Each period shall not exceed a maximum of thirty minutes, unless a majority of Councilors present vote to extend the time. Subject to the limitations contained in subsection (e) of this section, the first period for public comment shall be limited to items placed on the agenda, and the second period of public comment shall be used to comment on any issue of City business, other than agenda items.

(b) Persons wishing to speak during public comment must sign the “Speaker’s Roster” with the person’s name and address and the topic upon which the person wishes to speak, not later than the end of the opening exercises.

(c) Members of the public may speak about any topic during the last period for public comment, except as provided in subsection (d) of this rule.

(d) If a member of the public wishes to speak on an item that is scheduled for a public hearing at that same meeting, the speaker shall wait until that public hearing. Public comment shall not be used to testify about a quasi-judicial land use matter, to testify on an item that is not a public matter, to testify on a matter which has been or is scheduled to be heard by a hearings official, or to provide or gather additional testimony or information on any matter after the official record has been closed on any matter which has been the subject of a public hearing.

(e) Speakers are limited to three minutes. Generally, the speakers will be called upon in the order in which they have signed in on the Speaker’s Roster. Speakers shall identify themselves by their names and by their place of residence. Speakers may state their mailing address or the ward in which they reside. The Presiding Officer may allow additional persons to speak if they have not signed the Speaker’s Roster if sufficient time is left in the thirty minute period.

(f) Should there be more speakers than can be heard for three minutes each during either of the thirty minute periods provided for public comment, the Presiding Officer may sort the requests to speak in order to afford the greatest opportunity for each topic to be heard.

(g) Councilors may, after obtaining the floor, ask questions of speakers during public comment. Councilors shall use restraint when exercising this option, and shall attempt to limit questioning to no more than three minutes. The Presiding Officer may intervene if a Councilor is violating the spirit of this guideline. (Resolutions 2004-77; 2009-35)

Rule 16: Public Hearings Generally.

(a) A public hearing may be held on any matter upon majority vote of the Council. Public hearings may be held to consider legislative, quasi-judicial or administrative matters.

(b) Persons wishing to speak shall sign the “Hearing Roster” with the person’s name and address prior to the commencement of the public hearing at which the person wishes to speak.

(c) The City Recorder shall announce at the commencement of any public hearing the subject of the hearing as it is set forth on the agenda. The Presiding Officer shall then declare the hearing open.

(d) Each person shall, prior to giving testimony, give his or her name, shall indicate whether they are a resident of the City of Salem, and may give their address or identify the ward in which they reside. All remarks shall be addressed to the Council as a body and not to any member thereof.

(e) Speakers at hearings on legislative or administrative matters, other than legislative land use matters, will be limited to three minutes. Speakers at a hearing on a quasi-judicial matter, other than a quasi-judicial land use matter, shall be subject to the following time limits:

(1) Staff presentation. (15 minutes total).

(2) Affected party. (15 minutes per person).

(3) Neighborhood Associations. Appearance by a representative from any officially recognized neighborhood association which includes the affected area to present the association's position on the matter. (5 minutes total).

(4) Other interested persons. (3 minutes per person).

(5) Questions of Staff. (No time limit).

(6) Rebuttal by Affected Party. Rebuttal may be presented by the affected party. The scope of rebuttal is limited to matters which were introduced during the hearing. (7 minutes total).

(f) Councilors may, after recognition by the Presiding Officer, ask clarifying or follow up questions of individuals providing testimony after that individual has completed his or her testimony. Questions posed by Councilors should be to provide clarification or additional information on testimony provided. Questions should not be used as an attempt to lengthen or expand the testimony of the individual. Councilors shall be expected to use restraint and be considerate of the meeting time of the Council when exercising this option. The Presiding Officer may intervene if a Councilor is violating the spirit of this guideline.

(g) Councilors may, after the presentation of testimony of all interested persons, ask clarifying or follow-up questions of staff. Questions posed by ~~City~~ Councilors should be to provide clarification or additional information on testimony provided.

(h) The Presiding Officer may exclude or limit cumulative, repetitious, or immaterial matter. The Presiding Officer may order the testimony, alternating those speaking in favor and those in opposition, or having all speaking in favor testifying, followed by all those in opposition. The Presiding Officer, with the approval of Council, may further limit the time and/or number of speakers at any public hearing; provided that the Presiding Officer shall announce any such restrictions prior to the commencement of the testimony. In the event of large numbers of interested persons appearing to testify, the Presiding Officer, to expedite the hearing, may in lieu of testimony call for those in favor of the pending proposal or those in opposition to rise and direct the Clerk of the Council to note the numbers in the minutes.

(i) At the end of the Public Hearing, each member of the Council has the opportunity to comment on or discuss testimony given during the Public Hearing.

(j) A copy of any written testimony or physical evidence, which a party desires to have introduced into the record of the hearing, shall be submitted to the City Recorder in the manner provided in Council Rule 6(a). Communications concerning quasi-judicial matters are ex parte contacts, and a Councilor receiving any such communication that does not comply with Council Rule 6(a) must disclose the fact that such a communication has been received, and the content of the communication, unless the communication is included in the record in the manner provided by Council Rule 6(a).

(k) Documents submitted to the City as evidence or written testimony during a public hearing are public records. If such a document contains the name, address, including e-mail address, and telephone number of the person, then it will be included in the record of the proceeding. Because the name, address, including e-mail address, and telephone number is part of a public record, this information will be generally disseminated to the public, and must be disclosed if a public records request is submitted for the documents. A person who believes such disclosure would present a danger to his or her personal

safety, and who wishes to exempt his or her address, including e-mail address, and telephone number from disclosure must submit a written request for non-disclosure to the City Recorder pursuant to ORS 192.455(1). Any such request must be submitted no later than 5:00 p.m. the Wednesday preceding the meeting when the document will be entered into the record, and shall conform to OAR 137-004-0800, which requires the submission of documentary evidence that a danger to the person's public safety would exist if the information is disclosed. Upon a determination by the City that the criteria under OAR 137-004-0800 have been met, then the person's address, including e-mail address and telephone number will be redacted from the record submitted for the hearing. (Resolutions 87-29; 94-43; 2004-77; 2009-35; 2012-2)

Rule 17: Rescinded by Resolution No. 2009-95.

Rule 18: Procedure for Filling Vacancies on the Council and City Boards and Commissions.

(a) The Appointments Committee shall be a standing committee of the City Council, responsible for reviewing and making recommendations for filling Council vacancies, as provided by Section 20 of the Salem City Charter, and vacancies on the City's boards and commissions, as provided by Section 22 of the Salem City Charter, SRC 2.530-2.655, and any ordinance or resolution establishing a board or commission.

(b) When a Council vacancy occurs under Section 20(1) of the City of Salem Charter, or when a vacancy occurs on a City board or commission, the City Manager shall ensure that adequate public notice of the vacancy is disseminated. The notice shall inform interested persons that they may submit an application setting forth their qualifications and background and a statement of the reasons they wish to be considered to fill the vacancy; that the application materials shall be filed with the City Manager; and the deadline for submission of the materials. Any person who makes a timely submission and meets the qualifications shall be considered to fill the vacancy.

(c) After the deadline for the filing of application materials, the Appointments Committee shall review the application materials and determine whether the applicants have established they are qualified and otherwise eligible to serve. After such review, the Appointments Committee shall forward its recommendations to the Mayor, if the Mayor makes the appointment, or to the Council, if the Council makes the appointment. If the Council makes the appointment, the Council shall determine whether the recommended applicant or applicants should be interviewed, or appointed without interviews. If the Council determines that the applicant or applicants should be interviewed, then interviews will be scheduled at a date convenient to the Council. Any Councilor may review all applications submitted, and move that an applicant not otherwise recommended by the Appointments Committee be considered for appointment.

(d) If an incumbent seeks reappointment, the Appointments Committee shall review the incumbent's record and either recommend to the Council that the incumbent be reappointed or the position declared open. If reappointment is recommended and a majority of the Council concurs, the incumbent will be reappointed without interviews

with the other applicants; if a majority of the Council does not concur, the position will be declared open. If the Appointments Committee recommends opening the position, the Council may, in its discretion, declare the position open or reappoint the incumbent without interviews with the other applicants. A decision to open the position does not exclude the incumbent from consideration for reappointment, but the incumbent must participate in the interview process.

(e) In the event additional vacancies on a board or commission occur within one year of the date a vacancy on the board or commission is filled, the Appointments Committee may, in its discretion, recommend that the vacancy be filled from the pool of applications submitted to fill the original vacancy.

(f) If the Council makes the appointment, the Council shall review the qualifications of the recommended applicant or applicants, including any interviews, the Presiding Officer shall call for a vote. If more than three or more applicants are recommended, those persons receiving the two largest number of votes shall be designated as finalists on the final ballot; provided, any applicant that receives a majority of all votes cast in the original vote shall be deemed appointed to fill the vacancy. The person receiving the largest number of votes in the final ballot shall be appointed to fill the position. In the event no applicant receives a majority of all votes cast, additional ballots shall be taken until one of the applicants receives the required majority. If only one person is recommended, and the Council does not direct that the vacancy be reopened, upon motion by the City Council, the City Recorder shall enter a vote by acclamation for the applicant in the minutes. If the Mayor makes the appointment, the Mayor shall announce the appointments as a Mayor's item on the agenda.

(g) All ballots shall be in writing, and signed by the Councilor casting the vote. The City Attorney shall tally the vote and announce the results.

(h) When a Council vacancy occurs under Section 20(1) of the City of Salem Charter, and only one candidate has been nominated at the primary election or the candidate has been elected at the general election, as the case may be, it is the Council policy to appoint that person to fill the Council vacancy for the remainder of the unexpired term.

(i) In order to maintain geographic balance, the appointive members of the Budget Committee shall consist of one elector from each ward and one elector from the City at large. (Resolutions 87-29; 94-14; 94-43; 2000-155; 2001-180; 2004-77; 2011-46)

Rule 19: Conduct of Hearings on Land Use Matters.

(a) General Conduct of Hearings.

(1) Any party may speak in person, through an attorney, or elect to have a representative from an officially recognized neighborhood association present the party's case.

(2) A copy of any written testimony or physical evidence, which a party desires to have introduced into the record of the hearing, shall be submitted to the City Recorder in the manner provided in Council Rule 6(a). Communications concerning quasi-judicial land use matters are ex parte contacts, and a Councilor receiving any such communication that does not comply with Council Rule 6(a) must disclose the fact that such a communication has been received, and the content of the communication, unless the communication is included in the record in the manner provided by Council Rule 6(a).

(3) No person may speak more than once without obtaining permission from the Presiding Officer.

(4) Upon being recognized by the Presiding Officer, any member of the Council, the City Manager, City staff or the City Attorney may question any person who testifies.

(5) Testimony shall be directed towards the applicable standards and criteria which apply to the proposal.

(6) The Presiding Officer may exclude or limit cumulative, repetitious, or immaterial testimony. To expedite hearings, the Presiding Officer may call for those in favor and those in opposition to rise, and the City Recorder shall note the numbers of such persons for the record in the minutes.

(b) Quasi-Judicial Land Use Matters.

(1) **Scope of Review.** All appeals and Council-initiated review in quasi-judicial land use proceedings are de novo.

(2) **Conflicts of Interest; Ex Parte Contacts.**

(A) A Councilor shall not participate in the discussion or vote in a quasi-judicial land use matter if:

(i) The Councilor has an actual conflict of interest as defined by SRC 12.015(1), ORS 244.020(1), or ORS 244.120 or is prohibited from participating under Section 62 of the Salem City Charter;

(ii) The Councilor was not present during the public hearing; provided, however, the Councilor may participate if the Councilor has reviewed the evidence, including recordings of the hearing, and declares such fact for the record.

(B) Councilors shall reveal any ex parte contacts with regard to the proceeding at the commencement of any quasi-judicial land use matter. If such contacts impair the Councilor's impartiality, the Councilor shall state this fact, and abstain from participation in the matter.

(3) Burden of Proof; Standards and Criteria.

(A) The applicant has the burden of proof on all elements of the proposal, and the proposal must be supported by proof that it conforms to all applicable standards and criteria.

(B) The decision shall be based on the applicable standards and criteria set forth in the Salem Revised Code, the Salem Area Comprehensive Plan, and, if applicable, any other land use standards imposed by state law or administrative rule.

(C) The applicant and any opponents may submit to the hearing body a set of written findings or statements of factual information which are intended to demonstrate that the proposal complies or fails to comply with any or all applicable standards and criteria.

(4) Hearings Procedure. The order of hearings in quasi-judicial land use matters shall be:

(A) **Land Use Hearing Disclosure Statement.** The City Recorder shall read the land use disclosure statement, which shall include:

(i) A list of the applicable criteria;

(ii) A statement that testimony, arguments and evidence must be directed toward the applicable criteria or other criteria in the plan or land use regulation which the person believes to apply to the decision;

(iii) A statement that failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue; and

(iv) If applicable, a statement that a failure to raise constitutional issues relating to proposed conditions of approval precludes an action for damages in circuit court.

(B) **Call for Ex Parte Contacts.** The Presiding Officer shall inquire whether any member has had ex parte contacts. Any Councilor announcing an ex parte contact shall state for the record the nature and content of the contact.

(C) **Call for Abstentions.** The Presiding Officer shall inquire whether any member must abstain from participation in the hearing due to conflicts of interest. Any Councilor announcing a conflict of interest shall state the nature of the conflict, and shall not participate in the proceeding, unless the vote is necessary to meet a requirement of a minimum number of votes necessary to take official

action; provided, however, that the Councilor shall not participate in any discussion or debate on the issue out of which the conflict arises.

(D) Presentation of the Case.

(i) Staff Presentation. (10 minutes total).

(ii) Applicant's Presentation. (10 minutes total).

(iii) Neighborhood Associations. Appearance by a representative from any officially recognized neighborhood association which includes the affected area to present the association's position on the proposal. (5 minutes total).

(iv) Other interested persons. (3 minutes per person).

(v) Questions of Staff. (No time limit).

(vi) Applicant's Rebuttal. (5 minutes). Rebuttal may be presented by the applicant. The scope of rebuttal is limited to matters which were introduced during the hearing.

(E) Close of Hearing. No further information shall be received after the close of the hearing, except for specific questions directed to staff. If the response to any such questions requires the introduction of additional factual evidence, all parties shall be afforded an opportunity for rebuttal.

(F) Deliberations and Decision. Deliberations shall immediately follow the hearing. The Council may delay deliberations to a subsequent time certain.

(5) Findings and Order. The Council may affirm, modify, reverse, or remand the hearings body's decision. In the event the decision is modified or reversed, the Council shall adopt findings to support its decision. The Council may incorporate findings proposed by the applicant, opponents, staff, the hearings officer or the planning commission in its decision, or may direct the prevailing party to prepare draft findings for consideration by the Council.

(6) Reopened Hearings. The hearing may be reopened by the Council, upon majority vote, prior to decision, to receive additional testimony, evidence or argument. Notice shall be provided to the same persons who received notice of the original hearing.

(7) Continuances/Holding the Record Open.

(A) Procedure When Hearing Does Not Constitute the First Evidentiary Hearing. If additional evidence or documents are provided by any party after the date the staff report is made available to the public, the Council may allow a

continuance or leave the record open to allow the parties a reasonable opportunity to respond. Any continuance or extension of the date for closing the record requested by an applicant shall result in a corresponding extension of the 120-day time limitations set forth under ORS 227.178-227.179.

(B) Procedure When Hearing Constitutes the First Evidentiary Hearing.

Prior to the conclusion of a quasi-judicial proceeding which constitutes the first evidentiary hearing on the matter, any party may request an opportunity to present additional evidence, arguments or testimony regarding the proposal. Upon such request, the Council shall either continue the hearing or hold the record open as provided in this subsection.

(i) Continuances.

(a) If the Council grants a continuance, the hearing shall be continued to a time certain at least seven days after the date of the hearing. The continued hearing shall provide an opportunity for persons to present and rebut new evidence, arguments and testimony.

(b) If new written evidence is submitted at the continued hearing, any person may request, prior to the conclusion of the continued hearing, that the record be left open for at least seven days to submit additional written evidence, arguments or testimony for the purpose of responding to the new written evidence.

(c) Only one continuance is available of right under this subsection; provided, however, nothing in this subsection shall restrict the Council, in its discretion, from granting additional continuances.

(ii) Holding the Record Open.

(a) If the Council holds the record open for additional written evidence, arguments or testimony, the record shall be left open for at least seven days after the close of the hearing.

(b) Any participant may file a written request with the City Recorder for an opportunity to respond to any new evidence submitted during the period the record was left open. Any such request shall be filed no later than the end of the last business day the record is held open. If such a request is filed, the Council shall reopen the record.

(iii) Reopening the Record.

(a) If the record is reopened, any person may submit additional evidence, arguments or testimony to respond to the new evidence or new testimony submitted during the period the record was left open, or raise new issues or

make new arguments which relate to the new evidence, new arguments or new testimony. Notice of the reopened record shall be provided to any person who presented evidence or testimony in the proceedings prior to the date the record was reopened.

(b) The order of proceedings when the record is reopened shall be as follows:

(I) Applicant. (3 minutes).

(II) Interested Persons. (3 minutes per person).

(III) Applicant's rebuttal. (5 minutes).

(iv) Presentation of Final Written Argument. Unless waived by the applicant, the applicant shall have at least seven days after the record is closed to all other parties to submit final written argument in support of the proposal. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence.

(v) Effect on 120-Day Rule. Any continuance of the hearing or extension of the date for closing the record which is agreed to or requested by the applicant shall result in a corresponding extension of the 120-day time limitations imposed by ORS 227.178-227.179. A seven-day period for submittal of final written argument provided to the applicant shall likewise result in a corresponding extension of the 120-day time limitations. Any other continuance or extension shall be subject to the 120-day time limitations.

(C) As Used in this Subsection:

(i) "Argument" means assertions and analysis regarding the satisfaction or violation of legal standards or policy believed relevant by the proponent of a decision. "Argument" does not include facts.

(ii) "Evidence" means facts, documents, data or other information offered to demonstrate compliance or noncompliance with the standards and criteria believed by the proponent to be relevant to the proposal.

(c) Conduct of Hearings on Legislative Land Use Matters.

(1) Hearings Procedure. The order of proceedings for hearings on legislative land use matters shall be:

(A) Call for Abstentions. Inquire whether any member of the Council wishes to abstain from participation in the hearing. Any Councilor announcing an

abstention shall identify the reason therefor and shall not participate in the proceedings.

(B) Staff Summary. Staff shall present a statement of the applicable criteria, and a summary and recommendation concerning the proposal.

(C) Officially Recognized Neighborhood Association within the Affected Area. (5 minutes).

(D) Interested Persons. (3 minutes per person).

(E) Response. The Council, upon majority vote, may allow any person testifying in favor, to respond to any testimony by a person opposed to the proposed change. (3 minutes per person).

(F) Close of Hearing. No further information shall be received after the close of the hearing, except for responses to specific questions directed to staff.

(G) Deliberations and Decision. Deliberations shall immediately follow the hearing. The Council may delay deliberations to a subsequent time certain.

(2) Reopening Hearing. Prior to second reading of an ordinance relating to a legislative land use matter, and upon majority vote of the Council, a hearing may be reopened to receive additional testimony, evidence or argument. The same notice requirements shall be met for the reopened hearing as were required for the original hearing. (Resolutions 87-29; 2004-77; 2011-46; 2012-2)

Rule 20: Ordinances.

(a) Numbering. Proposed ordinances shall be known as ordinance bills. The City Recorder shall number all ordinance bills with a consecutive identification number during each calendar year, in the order of their introduction. Each number shall be followed by the last two digits of the year in which the ordinance was introduced.

(b) All ordinance bills shall, before presentation to the Council, have been approved by the City Attorney or the City Attorney's designee.

(c) Each ordinance shall contain a relating clause that identifies the subject of the ordinance, which shall be clearly expressed in its title. Ordinances that are being amended or repealed should contain the title of the ordinance or section number amended or repealed.

(d) An ordinance is introduced for consideration by the Council by presentation for first reading. After introduction, the Council may direct that a public hearing on the ordinance be held, refer the ordinance to committee for review and recommendation, refer the ordinance to the City Manager for further revision, pass the ordinance to second reading, or reject the ordinance in whole or in part.

(e) When an ordinance is placed before the Council for final passage, the Clerk of the Council shall call the roll and enter the ayes and nays in the record of the Council proceedings

(f) All proposed amendments to an ordinance bill shall be in writing, and may be made by interlineation upon the bill.

(g) No second reading of any ordinance shall occur at the meeting where it is introduced, except by suspension of this rule, and no ordinance shall be passed at a single meeting, except by unanimous vote for passage by all Councilors present.

(h) An affirmative vote of at least five members of the Council shall be necessary to pass an ordinance.

(i) When an ordinance is rejected by the Council, and is not reconsidered as provided by these rules, neither the ordinance, nor any other ordinance which contains substantially the same provisions, shall be considered by the Council for a period of not less than six months, unless at least five members of the Council petition for earlier consideration. (Resolutions 87-29; 92-206; 2004-77; 2004-110; 2009-35)

Rule 21: Designation of "Guest Councilor."

(a) Each Councilor shall be allowed to designate a person as "Guest Councilor" to fill the seat of the Councilor at a regular meeting in the event of his or her absence. In the event of an extended absence or a vacancy in a council seat, the Council as a whole may designate persons to serve in the capacity of Guest Councilor until such time as the successor takes office. A person designated as Guest Councilor must be an elector and a resident of the ward of the Councilor whose seat is being filled, and can serve as Guest Councilor only once each year. Employees of the City of Salem and the spouses and immediate family members of city employees are not eligible for designation as Guest Councilors.

(b) A Councilor shall make such designation by giving notice of the name and address of the person so designated to the Presiding Officer and the City Manager. If the designation arises because of an extended absence or a vacancy, the recommendation for designation shall be forwarded to the Council as a whole as a "Mayor's Item" or "Councilor's Item," as the case may be. If approved by consensus, the person so recommended shall serve at the next council meeting, or, if more than one person is designated, the City Manager shall schedule the persons for council meetings at mutually acceptable times. Upon designation, the City Manager shall have the agenda packet delivered to the person for the Council meeting at which the person will serve.

(c) No person filling the seat of a Councilor pursuant to this rule may make or second any motion or vote on any matter coming before the Council. Guest Councilors shall not attend executive sessions of Council. At any regular meeting where a Guest Councilor is filling the seat of a Councilor, the Chair shall, at the beginning of the meeting, introduce the person to

the other Councilors and to the public. At any one regular meeting, no more than two Guest Councilors may attend. (Resolutions 92-41; 94-37; 94-43; 2004-72; 2004-77)

Rule 22: Suspension and Amendment of Rules.

(a) Except as otherwise provided by the Salem City Charter, any provision of these rules may be temporarily suspended by a vote of two-thirds of the Councilors present. The vote on any such suspension shall be taken by ayes and nays and entered upon the record.

(b) These rules may be amended, or new rules adopted, by a vote of two-thirds of the Councilors present, provided that the proposed amendments or new rules have been introduced at a previous Council meeting, held not less than seven days prior to Council action on the proposed amendment or adoption. (Resolutions 87-29; 94-43; 2004-77; 2009-35)

RESOLUTIONS AMENDING COUNCIL RULES

Council Rules first adopted February 24, 1857

1. 87-29 Common Council adopting rules for conducting of its business and to govern its members, the same to be known as the Rules of the Council
2. 92-41 Updating the Rules of Council, amending Rule 1, Meeting of Council – deleting third Monday meeting; Rule 6, Order of Business – adding “Boards and Commissions Presentations”; and adding Rule 47, Council Fill-In
3. 93-23 Amending Council Rule 3, Committees – setting Liquor Application Investigation Committee and the Boards and Commissions Appointments Committee as standing committees of Council; with an effective date of 3/18/93
4. 93-137 Amending Council Rule 1, Meeting of Council and Council Rule 44, Limitation on Duration of Evening Meetings – regarding the hour that evening Council meetings begin and end
5. 93-138 Amending Council Rule 3, Committees – regarding liquor license approval criteria
6. 94-14 Amending Council Rule 38, Procedure for Filling Vacancies
7. 94-37 Amending Council Rule 47, Designation of “Guest Councilor”
8. 94-42 Amending Council Rule 6, Order of Business
9. 94-43 Updating the Council Rules and superseding Resolution 92-41 – Rule 1, Meetings; Rule 3, Liquor Application Investigation Committee; Rule 6, Public Hearings; Rule 38, Procedure for Filling Vacancies; Rule 44, Limiting Duration of Evening Meeting; Rule 47, Designation of Guest Councilor
10. 96-44 Amending Council Rules by adding a new Rule 48, Council Member’s Report on Events Attended at City Expense
11. 96-83 Amending Council Rule 45, Robert’s Rules to Govern – adopting “Robert’s Rules of Order Newly Revised” (9th ed. 1990)
12. 97-125 Amending Council Rule 6, Order of Business – relating to Proclamations and acceptance of written communications after close of public hearing
13. 98-9 Amending Council Rule 6, Order of Business – regarding the meeting agenda

14. 98-206 Amending Council Rules 1, Meeting of Council; 6, Order of Business; 17, Second Reading of Bills; and 19, Engrossed Bills; and repealing Council Rules 12, Communications Calendar and 22, Signing and Dating of Ordinances
15. 99-44 Amending Council Rule 1, Meeting of Council – changing evening Council meeting starting time from 7:00 p.m. to 6:30 p.m.
16. 2000-61 Amending Council Rule 1, Meeting of Council – relating to meeting time of Council
17. 2000-155 Amending Council Rule 38, Procedure for Filling Vacancies
18. 2001-19 Amending Council Rule 6, Order of Business – allowing testimony on communications at each “Appearance of Interested Citizens” on the Council agenda
19. 2001-180 Amending Council Rule 38, Procedure for Filling Vacancies, regarding Environmental Commission
20. 2002-81 Amending Council Rule 6, Order of Business – including the Pledge of Allegiance
21. 2002-151 Amending Council Rule 45, Robert’s Rules to Govern – adopting Robert’s Rules of Order Newly Revised (10th Edition, 2000)
22. 2004-72 Amending Council Rule 20, Designation of Guest Councilor
23. 2004-77 Revising Council Rules and renaming and renumbering current Council Rule 3, relating to liquor licenses, to Council Rule 17 (adding new Rules; adopting Rules in their entirety)
24. 2004-110 Amending Council Rule 20, Ordinances
25. 2004-132 Amending Council Rule 17, Liquor Application Investigation Board
26. 2009-35 Amending Council Rule 4, Council Meetings; Rule 5, Order of Business and Agenda; Rule 15, Public Comment; Rule 16, Public Hearings Generally; Rule 20, Ordinances; and Rule 22, Suspension and Amendment of Rules
27. 2009-95 Amending Council Rule 5, Order of Business and Agenda; and Rescinding Council Rule 17, Liquor License Application Investigation Board

28. 2011-46 Amending Council Rule 1, Robert's Rules Adopted; Rule 5, "Order of Business and Agenda"; Rule 10, "Consideration of Business"; Rule 18, "Procedure for Filling Vacancies on the Council, Planning Commission and Budget Committee"; and Rule 19, "Conduct of Hearings on Land Use Matters"

29. 2012-2 Amending Council Rule 5, "Order of Business and Agenda"; Rule 6, "Communications"; Rule 16, "Public Hearings Generally"; and Rule 19, "Conduct of Hearings on Land Use Matters"

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