

# PROTOCOLS & GUIDELINES

2004



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**City of Silverton**  
306 S. Water St.  
Silverton, OR 97381  
*www.silverton.or.us*

**SILVERTON CITY COUNCIL PROTOCOLS AND GUIDELINES**

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## **PREFACE**

**The following is a single source reference document on the Silverton City Council's protocols and communication guidelines. The protocols and guidelines included in this reference document have been formally adopted by Council Resolution No. 04-27.**

**The Silverton City Council believes that effective municipal governance requires that individual Council members adhere to a general set of principles when dealing with each other and the general public. Furthermore, the City Council desires to conduct its meetings in a manner that is courteous, effective and efficient, while fostering an environment that is fair, open and responsive to the needs of the community.**

**Members of the Silverton City Council will:**

- ❖ Trust and respect the opinions of fellow Council members, and be well informed and participate in the decisions of the Council.**
- ❖ Accept responsibility to attend all Council meetings and Council sub-committees assigned.**
- ❖ Fulfill obligations to share with other Council members the membership on the committees assigned.**
- ❖ Provide appropriate notification to the Mayor, Council President or City Manager of an absence as soon as possible prior to the meeting time.**
- ❖ Not disclose information which is confidential and, when asked by the public for information that is still confidential, will state that the information is confidential.**
- ❖ Make every attempt to resolve any conflict with a fellow Council member prior to bringing the conflict to the attention of the Council.**
- ❖ Expect to be informed of all issues and data in a timely manner.**

## **COUNCIL MEETING EXPECTATIONS**

- ❖ Try to make the citizens comfortable and part of the process at the meetings.**
- ❖ Make visitors comfortable by being courteous, respecting their opinions, and by showing trust and respect for visitors.**
- ❖ Do my best to communicate in clear, concise and audible language and written communications.**
- ❖ Strive to maintain a tone of voice that is friendly and sincere.**

- ❖ **Honor and act on all requests for action and/or information in a timely and courteous manner.**
- ❖ **Discuss issues, but not personalities with non-Council members. After an issue has been voted on, a council member will speak in a manner that does not undermine the integrity or motives of the Council.**

**COUNCIL FINAL AUTHORITY ON GUIDELINES: All questions regarding these guidelines shall be resolved by majority vote of the City Council.**

**Enclosures: Appendix A – Policy Decision-Making Process Illustration  
Appendix B – Request For Policy Consideration Form  
Appendix C – City Charter  
Appendix D – Chapter 2.04 Silverton Municipal Code – City Council  
Appendix E – 192.610-710 Oregon Revised Statutes – Open Meetings**

## I. COUNCIL MEETINGS

1. **Regular Meetings** – Consistent with Charter Section 13, regular meetings shall be held at least once each month in the city at a time and place which it designates. Pursuant to Section 2.04.020 of the Silverton Municipal Code (SMC), the City Council designates the first Monday of each month, commencing at 7:00 p.m. in the City Council Chambers, Silverton Community Center, 421 S. Water Street.
  - a. **Other Locations** – The Council may, from time to time, elect to meet at other locations within the City and upon such election shall give public notice of the change of location in accordance with provisions of Oregon Revised Statutes (ORS) 192.610-690.
  - b. **Location During Local Emergency** – If, by reason of fire, flood or other emergency, it shall be unsafe to meet in the Council Chambers, the meetings may be held for the duration of the emergency at such other place as may be designated by the Mayor, if the Mayor does not so designate, by the Council President or City Manager.
  - c. **Reschedule Meetings for Holidays** – When the day for any regular scheduled meeting falls on a legal holiday, the meeting for that month shall be held on the second Monday of the month.
2. **Special Meetings & Emergency Meetings** – Special meetings and emergency meetings of the Council may be called and held consistent with Section 2.04.030-040 SMC and ORS 192.640.
3. **Adjourned Meetings** – The Council may adjourn any regular or special meeting to a time and place specified in the order of adjournment.
4. **Executive Sessions** – Consistent with ORS 192.640-660, the Council may hold an Executive Session during any regular or special meeting, or any time otherwise authorized by State law to consider or hear any matter which is authorized by State law to be heard or considered in closed session.

- a. The City Council may exclude from any such closed session any person or persons which it is authorized by State law to exclude from such closed sessions.
- b. Council members may not reveal the nature of discussion from a closed session unless required by State law.
- c. The City Council shall take no final action on any matter discussed or deliberated on in closed session.
- d. The general subject matter for consideration shall be expressed in an open meeting before such session is held. Executive sessions may be held to discuss certain matters specified by State law, including:
  - 1. Initial employment of public officials and employees;
  - 2. Dismissal or disciplining of an officer or employee or performance evaluation of an officer or employee, unless the officer or employee requests an open meeting;
  - 3. Deliberations with persons designated to negotiate real property transactions;
  - 4. Deliberations with persons designated to conduct labor negotiations;
  - 5. Discussion of records that are exempt from public inspection;
  - 6. Negotiations involving matters of trade and commerce when the unit of government is in competition with other areas;
  - 7. Legal rights and duties of a public body with regard to current litigation or litigation likely to be filed;
  - 8. Review and evaluation of an executive officer, public officer, employee or staff member, unless an open hearing is requested by the person being reviewed; or
  - 9. Negotiations regarding public investments.

5. **Cancellation of Regular Meetings** – Any meeting of the Council may be canceled in advance by a majority vote of the Council, provided that the

Council meets the “one meeting per month” provision of the City’s charter.

6. **Quorum** – Consistent with Charter Section 14, a majority of the incumbent members of the Council shall constitute a quorum for its business, but a smaller number may meet and compel the attendance of absent members in a manner provided by ordinance.
7. **Chair** - Consistent with Charter Section 17, the Mayor shall preside over Council deliberations and shall have a vote on all questions before the Council. The Mayor is responsible for preserving order, enforcing Council rules, and determining the order of business under the rules of the Council.
  - a. **Absence of Mayor** – Consistent with Charter Section 18, The Council President shall preside in the absence of the Mayor.
  - b. **Mayor & Council President Absence** – When the Mayor and Council President are both absent from any meeting of the Council, the members present may choose another member to act as Mayor pro tem, and that person shall, for the time being, have the powers of Mayor.
8. **Attendance by the Public** – Pursuant to ORS 192.610-690, and except as specifically provided by State law for executive sessions, all meetings of the Council shall be open, public and accessible.
9. **Minutes** – Minutes of the Council will include paraphrased information on what took place at a given meeting, final motions, vote tally (in the event of a no vote by one or more Council members, the tally shall indicate yes and no votes by name,) attendance of Council members and staff, and the names of any interested party providing testimony before the Council. Speeches, presentations, statements or discussions will not be described verbatim, except when the information is necessary to understand what took place.
  - a. **Comments for the Record** – If a Council member desires for a comment to be included in the minutes, it is his or her responsibility to indicate that the statement is “for the record” before making the comment(s).
  - b. **Timing of Council Approval of Minutes** – Minutes of meetings are generally submitted for Council approval at the next regularly scheduled meeting for approval.
  - c. **Recording of Meetings** – Taped recordings of proceedings are maintained by the City Clerk for a period specified by State law.

## II. ORDER OF BUSINESS

1. **General Order** – The business of the Council at its meetings will generally be conducted in accordance with the following order of business unless otherwise specified. A closed session may be held at any time during a meeting consistent with State law.

CALL TO ORDER AND ROLL CALL  
PLEDGE OF ALLEGIANCE  
APPROVAL OF MINUTES  
OATHS OF OFFICE/PUBLIC RECOGNITION  
PUBLIC COMMENTS/ITEMS NOT ON THE AGENDA  
SCHEDULED PRESENTATIONS TO COUNCIL  
QUASI-JUDICIAL PROCEEDINGS  
PUBLIC HEARINGS  
CONSENT AGENDA  
COUNCIL DECISION ITEMS  
APPOINTMENTS TO COMMITTEES AND ADVISORY GROUPS  
COUNCIL DISCUSSION/COMMUNICATIONS  
EXECUTIVE SESSION  
ADJOURNMENT

2. **Items not on the Agenda** – Pursuant to ORS 192.640, the City shall publish a list of the principal subjects anticipated to be considered at the meeting, “but this requirement shall not limit the ability of a governing body to consider additional subjects.”
3. **Special Announcements and Presentations** – All special presentations will be calendared and coordinated through the Mayor and will be limited to a time period not to exceed 15 minutes at each Council meeting. The Mayor may grant an exception to this requirement on a case-by-case basis.
4. **Council Communications** – The Council Discussion/Communications section of the agenda provides Council the opportunity to briefly comment on Council business, activities, and community events. This may include verbal reports by councilors sitting on regional or local boards/commission/committees, city operations, city projects, upcoming events, and functions. Concerns or matters of current, pending or future Council deliberation are not considered announcements.
5. **Consent Agenda**– Routine items of business that require a vote but are not expected to require discussion or explanation may be placed on the consent agenda by the Mayor or City Manager. These items are voted on as one item to reduce the

length of the agenda and the length of Council meetings. Any item that is placed on the consent calendar may be pulled for discussion at the request of a Councilor.

6. **Monthly Reports** – The following reports will be included in the agenda packet for each regularly scheduled meeting, and others as appropriate or requested by Council:
  - a. **Financial Report** – A condensed report of the City’s finances by operating fund. The City Council shall receive one detailed financial report on a quarterly basis.
  - b. **Master Calendar** – A calendar of major agenda items planned for upcoming meetings.
  - c. **Council Discussion Items Follow-up Report** – A simple spreadsheet documenting issues raised by Council members during the Council Discussion portion of the agenda that require further follow-up by staff.
  - d. **Public Projects Update** – A brief description of current or planned public projects, updated monthly.
  - e. **Planning Report** – A brief description of planning and land use related issues.
  - f. **Police Report** – A brief report on crimes and traffic citations pertinent to the City of Silverton.
  - g. **Building Permit Activity Report** – A monthly report of all commercial, industrial and residential building permit activity in the City of Silverton.
  
7. **Standard Adjournment** – The Council establishes 10:00 p.m. as the hour of adjournment and will not continue beyond 10:00 without a majority vote of the Council. To assist in making the determination to continue an item under consideration, the Council should find that discussion, deliberation, and action on the item can be concluded by 11:00 p.m.

The Council will not hear any new agenda items past 10:00 p.m. without a majority vote of the Council. A determination should be made by Council that any new item(s) can be discussed, deliberated and action taken before 11:00 p.m.

If an agenda item(s) remain after the 10:00 p.m. adjournment, a special meeting may be scheduled or the item(s) deferred until the next regular meeting.

### III. RULES OF CONDUCT FOR COUNCIL MEETINGS

1. **General Procedure** – It is the policy of the Council not to become involved in the entanglements over “parliamentary procedure.” Consistent with the City Charter and any applicable City ordinance, statute or other legal requirement, any issue or procedure relating to the conduct of a meeting or hearing not otherwise provided for herein may be determined by the Mayor, subject to appeal to the full Council.
2. **Addressing Members of the Public or Staff** – In addressing the public and members of the City’s staff, Council members will generally refer to persons as Mr. or Mrs., or Ms. followed by their surname. Staff shall refer to Council members as Mayor or Councilor followed by the surname of the person being referred to.
3. **Authority of the Chair** – Subject to appeal to the full Council, the Mayor shall have the authority to prevent misuse of motions, or the abuse of privilege, or obstruction of the business of the Council by ruling any such matter out of order. In so ruling, the Mayor shall be courteous, fair, and should presume that the moving party is acting in good faith.
4. **Mayor to Facilitate Council Meetings** – In the role as facilitator, the Mayor will assist the Council to focus on the agenda, discussions and deliberations.
5. **Council Deliberation & Order of Speakers** – The Mayor is delegated the responsibility to control debate and the order of speakers. Speakers will generally be called upon in the order they make the request to speak.
  - a. **Questions Addressed to Another Councilor** – With the concurrence of the Mayor, a Council member holding the floor may address a question to another Council member and that Council member may respond while the floor is still held by the Council member asking the question. A Council member may opt not to answer a question while another Council member has the floor.
6. **Limit Discussion and Deliberations to Item at Hand** – Council members will limit their comments to the subject matter, item or motion being currently considered by the full Council.

7. **Length of Council Comments** – Council members will govern themselves as to the length of their comments or presentation.
  - a. The Mayor shall act as the arbiter in determining how long an individual Council member may speak on an item. The intent of this policy is not to limit debate, but rather to assist Council members in their efforts to communicate concisely.
8. **Obtaining the Floor** – Any member of the Council wishing to speak must first obtain the floor by being recognized by the Mayor. The Mayor must recognize any Council member who seeks the floor when appropriately entitled to do so.
9. **Discussion** – The following basic format should be followed for discussion on each item on the agenda. The Mayor will:
  - a. Announce the agenda item, sometimes by number, clearly stating the subject of the issue. If it is a public hearing open the public hearing.
  - b. Invite reports from staff, advisory committees, or other persons charged with providing information to the Council.
  - c. Ask if any councilmembers have any technical questions that require clarification.
  - d. Ask for public comments or, if when the item is a public hearing invite the appellant then the applicant and lastly the public to provide testimony as described in Section V. At the end of the public comment section announce that public input has concluded or the public hearing has ended. The balance of the discussion will be limited to the members of the Council, unless the Council waives this rule by majority vote.
  - e. Invite a motion from the Council and recognize/announce the name of the member making the motion and then the person seconding the motion.
  - f. Ensure that the motion is clearly understood, either by repeating it or by asking the clerk or the author of the motion to repeat it.
  - g. Ask if there is further discussion on the motion before the Council.
  - h. Moderate any further discussion if needed, allowing for normal and reasonable debate, on the motion or any proposed

amendments before the question is called.

- i. Determine that the motion is ready for a vote.
- j. Call for the vote.
- k. Announce the result of the vote.

10. **Motions** – Motions may be made by any member of the Council. Any member of the Council, other than the person offering the motion, may second the motion.

11. **Procedure for Motion** – The following is the general procedure for making motions:

- a. Before a motion can be considered or debated it must be seconded.
- b. Council members wanting to make a motion should notify the Mayor of their intent to do so.
- c. A Council member wishing to second a motion should do so through a verbal request to the Mayor.
- d. Once the motion has been properly made and seconded, the Mayor shall open the matter for discussion to the full Council.
- e. Once the matter has been fully discussed and the Mayor calls for a vote, no further discussion will be allowed, provided, however, Council members may be allowed to explain their vote.

12. **Motion Amendments** – When a motion is on the floor, and an amendment is offered, the amendment should be acted upon prior to acting on the main motion.

13. **Motion of Intention** – A Motion of Intention process is generally limited to matters legally required to be supported by findings.

- a. In proceedings identified as quasi-judicial on the agenda, when the City Council takes an action that is substantially different from the staff recommendation, the Council may utilize the Motion of Intention process.
- b. A Motion of Intention provides staff direction as to the City Council's action through a formal motion.

- c. Based on this motion, staff revises the necessary findings, resolutions and or/implementing documentation for the City Council's action at the next scheduled meeting.
  - d. Upon receiving a Motion of Intent by a Council member, the Mayor should make sure that the hearing on the matter resulting in the motion is closed prior to a vote.
14. **Ordinances** – Motions offering ordinances are deemed to include waiver of full reading of the ordinance unless otherwise specifically stated.
15. **Voting** – Pursuant to Charter Section 19, the concurrence of a majority of the Council voting when a quorum of the Council is present shall decide any question before it. No Council member present at a Council meeting shall abstain from voting without first stating reasons in detail at the meeting. If the vote is a voice vote, the Mayor shall declare the result. The results of the vote shall be clearly set forth in the record.
16. **Abstention** – If a Council member abstains because of a legal conflict, he/she is not counted as present for quorum purposes and is not deemed to be voting for the purposes of determining whether there has been a majority vote of those members present and voting.
- a. When a Council member abstains or excuses themselves from a portion of a Council meeting because of a legal conflict of interest, the Council member must briefly state on the record the nature of the conflict. The inclusion of this information in the public record is required by law.
17. **Tie Votes** – A tie vote results in a lost motion. In such an instance, any member of the Council may offer a new and different motion for further action and if there is no action by an affirmative vote on the motion, the result is no action and if the matter involves an appeal, the result is that the decision under appeal stands as decided by the decision-making person or body from which the appeal was taken.
18. **Motions for Reconsideration** –
- a. A motion for reconsideration of a previous motion that passed or failed may be made at the same Council meeting, but only by a Council member that voted with the majority.
  - b. In the case of a tie vote, the prevailing side or the majority of the Council will be deemed to be those Council members who

voted in the negative.

- c. Any member of the Council may second a motion for reconsideration.
- d. The same matter may be raised and a motion made by any Councilor at any subsequent Council meeting, provided it is placed on the agenda using the Policy Decision Making Process in Section VII and complies with the Oregon Open Meeting Laws.

- 19. **Non-Observance of Protocols and Guidelines** – The adopted protocols and guidelines are adopted to expedite and facilitate the transaction of the business of the Council in an orderly fashion and will be deemed to be procedural only. Failure to strictly observe any such protocol or guideline will not affect the jurisdiction of, or invalidate any action taken by the Council. The Council will make every effort to comply with all protocols and guidelines within this document. All questions pertaining to the document regarding its' protocols and guidelines must be resolved by a majority vote of the City Council.
- 20. **Dress Code for City Council Members** – It is the policy of Council to create a dignified and professional environment for Council meetings. The Dress Code policy shall apply to any individual Councilor Member representing the City in their official capacity as a member of the City Council.
- 21. **Use of Handheld Electronic Devices During Council Meetings** – The use of handheld electronic devices shall not interfere with the meeting.

#### IV. QUASI-JUDICIAL PROCEEDINGS

- 1. **Defined** – Quasi-judicial proceedings are those proceedings in which the City Council is required to make findings based on an evidentiary record as to the entitlement. In quasi-judicial proceedings, the City Council sits as the judge and jury, and is required to make findings based on the evidence and records presented. Examples of quasi-judicial proceedings include conditional use permits, variances, subdivision map approvals, and enforcement of nuisance provisions.
- 2. **Identification on the Agenda** – Quasi-judicial proceedings will be identified as such on the Council agenda under the heading of “Quasi-Judicial Proceedings.”
- 3. **Ex-Parte Communications** – Ex-parte communication is any oral or written communication made with a Council member outside the Council Chambers with any person, except the City Attorney and city

staff when performing their official duties, concerning a quasi- judicial proceeding to be heard by the City Council.

- a. When a Council member has an ex-parte communication concerning a subject that is the basis of a quasi-judicial proceeding before the Council, the Council member must state for the public record the nature of that communication. Council members must indicate with whom the ex-parte communication was made and provide a brief statement as to the substance of the communication.
- b. A Council member may make an oral presentation of the nature of the communication or provide a written statement to be read into the public record.

## V. PUBLIC HEARINGS

1. **General Procedure** – The Council procedure for the conduct of a public hearing is generally as follows:

- a. The Mayor opens the public hearing.
- b. Staff presents the staff report.
- c. Council may ask questions of staff for clarification on issues raised in the staff report.
- d. The applicant or appellant then has the opportunity to present comments, testimony, or arguments. In the case of an appeal when the appellant is different from the applicant, the appellant should be called up first to provide comments or testimony.
- e. Members of the public are provided with the opportunity to present their comments, testimony or argument. Generally, the order of public comment will be: those in favor, those in opposition, and those neither in favor nor opposed.
- f. The applicant or appellant is given an opportunity for rebuttal or concluding comments. In the case of an appeal when the appellant is different from the applicant, the appellant is given the opportunity for closing comments.
- g. The public hearing is closed.
- h. The Council deliberates on the issue.
- i. If the Council raises new issues through deliberation and seeks

to take additional public testimony, (questions of the public, applicant or appellant), the public hearing must be reopened. At the conclusion of the public testimony, the public hearing is again closed.

- j. The Council deliberates and takes action.
  - k. The Mayor announces the final decision of the Council.
2. **Time for Consideration** – Matters noticed to be heard by the Council will commence at the time specified in the notice of hearing, or as soon thereafter as is reasonably possible, and will continue until the matter has been completed or until other disposition of the matter has been made.
  3. **Continuance of Hearing** – Any hearing being held or noticed or ordered to be held by the Council at any meeting of the Council may, by order or notice or continuance, be continued or recontinued to any subsequent meeting.
  4. **Public Discussion at Hearings** – When a matter for public hearing comes before the Council, the Mayor will open the public hearing. Upon opening the public hearing and before any motion is adopted related to the merits of the issue to be heard, the Mayor shall inquire if there are any persons present who desire to speak on the matter which is to be heard or to present evidence respecting the matter.
    - a. **Public Member Request to Speak** – Any person desiring to speak or present evidence shall make his/her presence known to the Mayor and upon being recognized by the Mayor, the person may speak or present evidence relevant to the matter being heard. No person may speak without first being recognized by the Mayor. All persons providing testimony must fill out a public hearing request to speak and clearly state their name and address for the record.
    - b. **Council Questions of Speakers** – Members of the Council who wish to ask questions of the speakers or each other during the public hearing portion may do so but only after first being recognized by the Mayor. Interaction with the speaker shall be limited to a question or questions, rather than an ongoing dialogue. Council members should avoid raising questions as a method to extend the allocated time for a speaker.
    - c. **Due Process** – The Mayor shall conduct the meeting in such a manner as to afford due process.
    - d. **Public Oral Presentations** – All Council rules pertaining to oral presentation by members of the public apply during public

hearings.

- e. **Materials for Public Record** – All persons interested in the matter being heard by the Council shall be entitled to submit written evidence or remarks, as well as other graphic evidence. All such evidence presented will be retained by the City Clerk as part of the official record of the hearing, unless otherwise directed.
  - f. **Germane Comments** – No person will be permitted during the hearing to speak about matters or present evidence which is not germane to the matter being discussed. A determination of relevance shall be made by the Mayor, but may be appealed to the full Council.
5. **Communications and Petitions** – Written communications and petitions concerning the subject matter of the hearing will be noted, read aloud, or summarized by the Mayor. A reading in full shall take place if requested by a majority of the Council.
6. **Admissible Evidence** – Hearings need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be considered if it is the sort of evidence upon which a reasonable and responsible person is accustomed to rely in the conduct of serious affairs.

## VI. ADDRESSING THE CITY COUNCIL

- 1. **Staff Presentations** – Staff presentations will be limited to 10 minutes. Longer staff presentations must be approved by the City Manager prior to the Council meeting.
- 2. **Oral Presentations by Members of the Public** – Oral presentations by members of the public at City Council meetings are as follows:
  - a. Prior to the meeting, or during the meeting prior to a matter being reached, persons wishing to address the Council should fill out a general request to speaker card and submit it to the Mayor or City Manager.
  - b. When called upon, the person should come to the podium, state his/her name and address for the record, and, if speaking for an organization or other group, identify the organization or group represented.
  - c. All remarks should be addressed to the Council as a whole, not to individual members thereof.

- d. Questions, if any, should be directed to the presiding officer who will determine whether, or in what manner, an answer will be provided.
3. **Public Comment** – Public Comment is that portion of the City Council meeting set aside for members of the public to address the City Council on items of any city business other than scheduled agenda items.
- a. **Timing** – Public Comment is generally permitted at the beginning of a Council meeting just after the Council takes action on the proceeding meeting’s minutes. Public comment is limited to 3 minutes per speaker, but may be extended at the discretion of the Mayor.
  - b. **Addressing Council** – Persons wishing to speak under Public Comment should identify themselves at the appropriate time.
  - c. **City Business** – Presentations under Public Comment are limited to items within the subject matter jurisdiction of the City.
  - d. **Council Deliberations Prohibited** – In compliance with Oregon Open Meetings law, the Council may not deliberate or vote on any matter raised during Public Comment. The Mayor, however, may request the City Manager to provide additional information on any matter of general interest to the full Council or the public at large. To insure the most efficient use of staff time, and to insure that a majority of the Council wishes to take formal action on a matter brought before the Council during Public Comment, a Council member may request a policy consideration or reconsideration through the Council’s Request for Policy Consideration process in Section VII or by raising the issue during Council discussion at the same meeting. Using the latter method, if at least three other Councilors agree to do so, the matter will be placed on the agenda of the next regular meeting. In no event will the matter be decided at a meeting where the matter is not on the agenda published before the meeting.
  - e. **Council Interaction with the Public** – If a Council member believes that a material misstatement of fact has been made by a person during the public comment portion of the agenda, the Council member may ask the City Manager or City Attorney to correct or otherwise clarify the matter or the Council member may provide a direct response at that time. If a spontaneous response is not possible, the Mayor should direct the City Manager to either

respond directly to the individual making the request once all the facts are established, or require the City Manager to clarify the issue at the next regular Council meeting for the benefit of the Council and the general public.

f. **Repetitious or Dilatory Comments Prohibited**

1. A speaker shall not present the same or substantially same items or arguments to the Council repeatedly or in a dilatory manner. If a matter has been presented orally before the Council, whether the Council has taken action, or determined to take no action, the same or substantially same matter may not be presented orally by the same person any further.

Nothing in the foregoing precludes submission of comments to the City Council in writing for such action or non-action as the Council, in its discretion, may deem appropriate.

2. In order to expedite matters and to avoid repetitious presentations, the designation of a spokesperson is encouraged.

Whenever a group of people wish to address the Council on the same subject matter, those persons are encouraged to designate a spokesperson to address the City Council. The Mayor may extend the time allocation for a designated spokesperson.

- g. **Waiver of Rules** – Any of the foregoing rules may be waived by majority vote of the Council when it is deemed that there is good cause to do so based upon the particular facts and circumstances involved.
- h. **Non-Exclusive Rules** – The rules set forth are not exclusive and do not limit the inherent power and general legal authority of the Council, or of its presiding officer, to govern the conduct of City Council meetings as may be considered appropriate from time to time or in a particular circumstance for purposes of orderly and effective conduct of the affairs of the City.

**VII. POLICY DECISION MAKING PROCESSES**

1. **Council member Appointments and Assignments** – The Mayor appoints, and the City Council confirms Council member assignments to outside agencies, committees, taskforces and liaison

roles.

2. **Mayor to Act as Council Ceremonial Representative** – The Mayor has been delegated the responsibility to act as the City Council’s ceremonial representative at public events and functions. In the Mayor’s absence, the Council President assumes this responsibility. In both the Mayor and Council President’s absence, the Mayor will appoint another Council member to assume this responsibility.

3. **Proclamations**

- a. Incoming requests for a proclamation to be presented at an event or Council meeting are provided to the Mayor for approval. All proclamation requests are provided in writing two weeks prior to event/Council meeting date and also include a draft proclamation.
- b. Once the Mayor approves the proclamation request, the proclamation is either scheduled at an upcoming Council meeting, presented at an event or the proclamation is picked up/mailed to the requesting entity/person. In the event that the Mayor is unable to attend an event, the Council President or a Council member attends on behalf of the Council. In this case, the Mayor along with the attending Council President/Council member signs the proclamation.
- c. In the event the Mayor receives a request for a proclamation where the subject matter is questionable as to the appropriateness, the Mayor will forward the request to the full Council for a vote.

4. **Certificate of Recognitions**

- a. Incoming requests for certificates of recognition to be presented at an event or Council meeting are provided to the Mayor for approval. All certificate requests are provided in writing two weeks prior to event/Council meeting date and also include certificate verbiage. A copy of the request must be provided to the City Clerk to retain in accordance with Oregon Record Retention Law.
- b. Once the Mayor approves the certificate request, the certificate is either scheduled at an upcoming Council meeting, presented at an event or is picked up/mailed to the requesting entity/person. In the event that the Mayor is unable to attend an event, the Council President or a Council

member attends on behalf of the Council. In this case, the Mayor along with the attending Council President/Council member signs the certificate of recognition.

- c. In the event the Mayor receives a certificate request where the subject matter is questionable as to the appropriateness, the Mayor will forward the request to the full Council for a vote.
5. **Council member Participation in Community Activities** – From time to time, Council members may choose to participate in community activities, committees, events, task forces and civic groups. When a Council member participates in these types of activities, he/she is acting as an interested party rather than acting on behalf of the City Council. Acting or participating on behalf of the City Council is limited to those instances when the Council has formally designated the Council member as its representative for the matter.
  6. **Study/Work Session** – Study or Work Session items may be placed on regular or special meeting agendas for the purpose of open discussion. During Study or Work Sessions, Council members will ask questions that staff records. For those questions that staff cannot readily answer, responses will be provided for the Council, transmitted in writing at the earliest possible date.
  7. **Advance Administrative and Informational Reports** – Administrative and Informational reports will be forwarded to the Council as part of the monthly agenda packets.
  8. **Policy Decision-Making Process Steps** – As illustrated in Appendix A, the Policy Decision-Making Process may be initiated by individual Council members, appointed Committees/Commissions and/or staff members. These individuals or groups may request the full Council to consider the review or revision of existing policies or the consideration of new policy. Members of the public may request a Council member to initiate the full Council's consideration.
    - a. **Step 1 Initial Inquiry** – Step 1 is accomplished by including the matter on an upcoming meeting agenda for the Council's consideration. A brief write up of the matter is included on the Request for Policy Consideration Form (Appendix B). The Request for Policy Consideration Form briefly lays out the request so that Council can choose if they wish to dedicate staff time and resources to review the matter. At this juncture, a vote of the Council is taken to determine if the Council feels they have adequate information to make a decision, dedicate staff time and resources to investigate and review revisions, or possible modifications to Council policy.

**Action Taken** – If the Council feels they have adequate information to make a decision, action is taken at this juncture.

**No Further Consideration** – If the majority of the Council chooses not to dedicate staff time and resources to investigate and review policy changes at this time, the decision-making process is complete.

**Further Consideration** – If the majority of the Council chooses to dedicate staff time and resources to review current policy for possible modifications or the consideration of new policy, additional steps in the Policy Decision-Making Process are triggered as follows:

- b. **Step 2 Scope & Assignment** – Step 2 of the process includes the City Council, with the assistance of the City Manager, defining the scope of the investigations to be undertaken and assigning primary responsibility for the task to a commission, board, committee or staff. The Council will generally define the scope and assign the task directly after the majority has chosen to have a policy/issue reviewed. The responsible commission, board, committee or staff will proceed to complete the review.
- c. **Step 3 Analysis of Alternatives** – Step 3 in the process includes completing the alternatives analysis. After the background and current status are completed, alternatives are identified and an analysis is completed. At any time during this process, an administrative report may be prepared to seek confirmation regarding the identified alternatives’ consistency with Council’s direction. This feedback option will insure that additional time is not spent on alternatives that may be inconsistent with the Council’s direction.
- d. **Step 4 Administrative Report** – Step 4 is the preparation of an Administrative Report. After the analysis of alternatives is completed, recommendations are prepared for the Council’s consideration. The recommendations are included on an upcoming Council agenda for discussion and action.
- e. **Step 5 Policy Direction** – Step 5 includes the Council providing policy direction. At the conclusion of their discussion regarding the alternatives and recommended actions, the majority of the Council reaches a decision and provides direction as to which alternative will be implemented.
- f. **Routine Matters** – The policy decision making process is not intended for routine matters where Council, by majority vote,

can provide direction to staff to remediate a problem or issue for a member of the community. The process is intended for more complex issues or when they may involve significant staff/board/commission time, where the Council desires to explore all alternatives before reaching a decision.

## 9. **Placing Items on Council Agendas**

- a. **By Council Members** – Any Council member may request an item or matter be placed on the Council’s agenda. The Council member has two options for making this request:
  1. Use of Policy Decision Making Process in this Section VII following the steps in Subsection 8 above; or
  2. Raise the issue during Council Discussion at a regular meeting. If at least three other Councilors agree to do so, the matter will be placed on the agenda of the next regular meeting. In no event will the matter be decided at a meeting where the matter is not on the agenda published before the meeting.
- b. **By Mayor or Manager** – The Mayor or City Manager may place any item on the regular agenda that they believe is of general interest or necessary to carry on city business.

## VIII. **COUNCIL COMMITTEES**

1. **Ad Hoc Committees of the Council** – From time to time the Council may establish ad hoc committees of the Council to deal with a specific issue or problem in the community.
  - a. **Ad Hoc Committee Defined** – An ad hoc committee of the council is one that: (1) does not have a continuing subject matter jurisdiction, and (2) does not have a meeting schedule that is fixed by ordinance, resolution or other formal action of the Council. In addition, an ad hoc committee may not consist of more than 3 Council members.
  - b. **Conduct of Ad Hoc Committee Meetings** – Meetings of an ad hoc committee of the Council are subject to the same open meeting laws and requirements as City Council meetings.

## IX. **COUNCIL MEMBER ADMINISTRATIVE SUPPORT**

### 1. **Mail**

- a. **Letters addressed to Mayor and/or City Council** – All letters addressed to the Mayor and/or entire City Council requiring a response from staff are copied to all Council members with a



letter, will be copied to the full Council.

4. **Master Calendar** – A master calendar of Council events, upcoming agenda items, functions or meetings will be provided to the full Council. Functions, events or meetings to be attended by individual Council members will only be included on the master calendar at the request of individual Council members.
5. **Requests for Research or Information** – All requests for information or research from individual Council members shall be directed through the City Manager’s office. Requests for new information or policy direction will be brought to the full Council at a regular meeting for consideration. All written products will be copied to the full Council.
  - a. From time to time Council members will call or email the City Manager to request information or bring attention to a matter that needs to be addressed (e.g., code enforcement issue, pothole, etc.). In all such instances, these matters will be addressed in the most expeditious manner possible.

When such calls for information deal with policy-related matters, the City Manager shall inform the full Council of the nature of the call/e-mail, and provide the full Council with any response that was given to the Council member who made the request.

The intent of this protocol is to insure that all Council members are being provided with the same information

6. **Tickets to City Events** – The Silverton City Council places a high value on community involvement and encourages its members to participate actively in community-related events. Two tickets for each Council member will be made available for events hosted by the City. Departments hosting City events will coordinate the distribution of tickets to Council members with the City Manager’s office. The availability of tickets for events hosted by other organizations which the City sponsors will be at the discretion of the organizing agency. When the City is a major sponsor of an event, staff will endeavor to include the availability of tickets in the sponsorship agreement or contract.

The Council may elect to provide tickets to individual Council members and their spouse for other city-related/community events where the City’s presence is expected and/or required. The Council will make such determinations on a case-by-case basis.

7. **Council Notification of Significant Incidents** – In conjunction with the City’s Police Department and Silverton Fire District, the City Manager’s office will coordinate the notification to Council of major crime, fire or

other incidents. This will be accomplished concurrently through e-mail and/or phone calls for the more significant incidents. In addition, the City Manager will endeavor to keep the Council informed by e-mail of incidents/issues that occur in the community that do not rise to the level of a “significant incident.”

8. **Council Travel & Training** - Any expenditure from the Travel & Training line item in the City Council Department of the General Fund may be authorized by the City Manager for any Council Member that does not require an overnight stay with exception to the annual LOC Conference which any Council Member in good standing may attend as representative of his/her office. When the costs of a conference or training require an overnight stay, the Council must approve a Councilor’s attendance prior to the conference or training. Any expenditures that exceed the projected cost of the travel or training must be brought back to the Council for approval.

## **XII. PROTOCOL & GUIDELINE ADMINISTRATION**

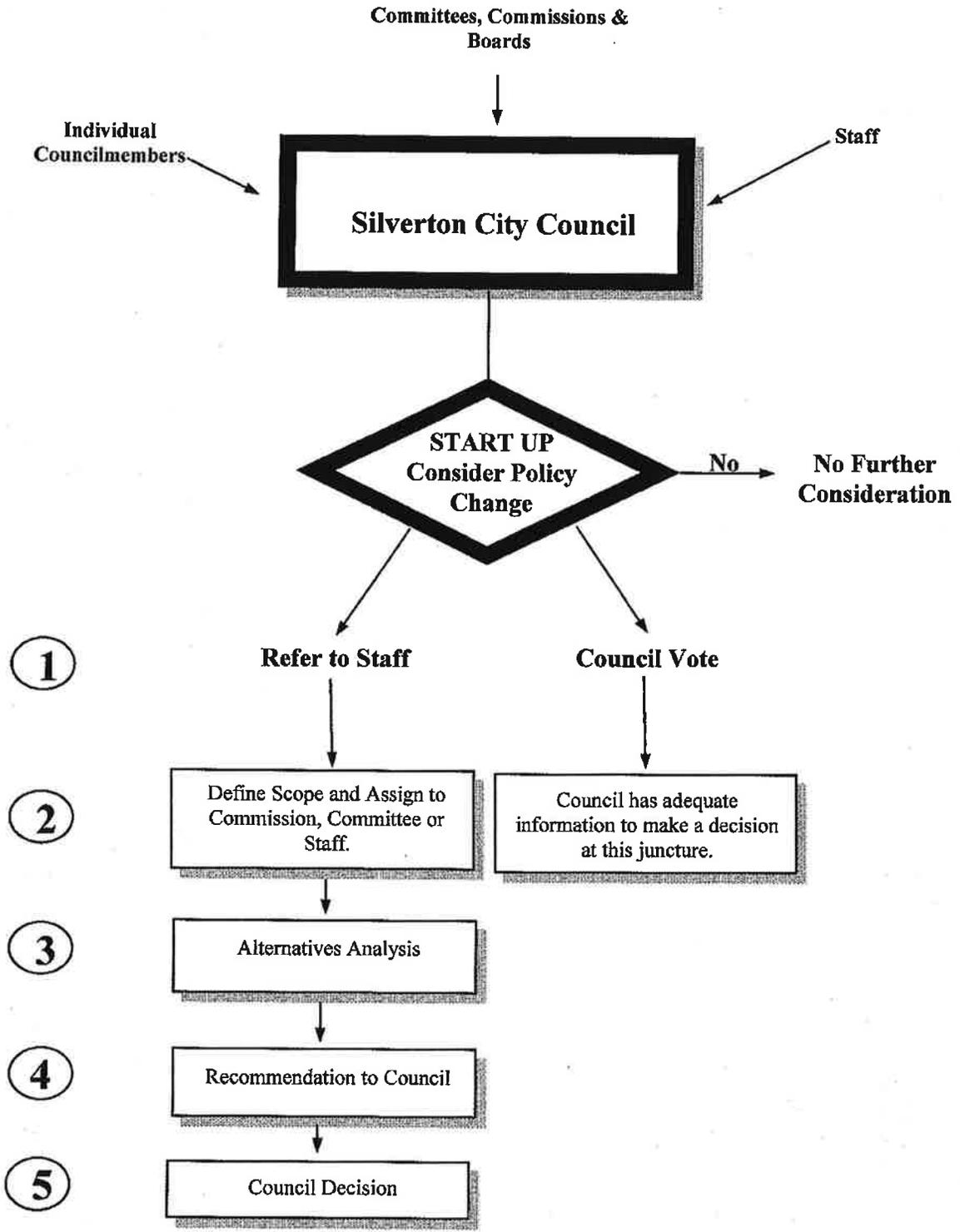
1. **Biennial Review of City Council Protocols & Guidelines** – The Council will review and revise the City Council Protocols and Guidelines as needed or every two years.
2. **Adherence to Protocols and Guidelines** – During City Council discussions, deliberations and proceedings, the Mayor is delegated the primary responsibility to insure that the City Council, staff and members of the public adhere to the Council’s adopted protocols.
3. **City Attorney as Protocol Advisor** – The City Attorney assists the Mayor as a resource to confer with, and acts as an advisor for interpreting the City Council’s adopted protocols and guidelines.
4. **Adherence to Administrative Procedure & Process Protocols** - The City Council has delegated the Mayor responsibility to discuss, on behalf of the full Council, any perceived or inappropriate administrative action with a Council member. The Mayor will discuss with the Council member the action and suggest a more appropriate process or procedure to follow. After this discussion, if further inappropriate action continues, the Mayor will report the concern to the full Council.

*(Reviewed and adopted April 4, 2016)*

# **APPENDIX A**

## **Policy Decision- Making Process Illustration**

# Silverton City Council Policy Decision Making Process



# **APPENDIX B**

## **Request for Policy Consideration Form**

# REQUEST FOR POLICY CONSIDERATION

**Agenda Item Number:**

**Council Meeting Date:**

**Introduced By:**

**Problem/Issue/Idea Name:**

**Requested Action:** \_\_\_\_\_

**Description of Problem/Issue/Idea:**

# **APPENDIX C**

## **City Charter Enacted 1985**

**CITY OF SILVERTON CHARTER**

To provide for the government of the city of Silverton, Marion County, Oregon; and to repeal all Charter provisions of the city enacted prior to the time that this Charter takes effect.

Be it enacted by the people of the City of Silverton, Marion County, Oregon:

**CHAPTER I****NAME AND BOUNDARIES**

Sections:

1. Title of Enactment.
2. Name of City.
3. Boundaries.

**Section 1. Title of Enactment.**

This enactment may be referred to as the City of Silverton Charter of 1985.

**Section 2. Name of City.**

The municipality of the City of Silverton, Marion County, Oregon, shall continue to be a municipal corporation with the name "City of Silverton."

**Section 3. Boundaries.**

The city shall include all territory encompassed by its boundaries as they now exist or hereafter are modified pursuant to law. The city recorder shall keep an accurate, up-to-date description of the boundaries and make copies of this Charter and the boundary descriptions available for public inspection. The copies and descriptions shall be available for public inspection during regular office hours.

**CHAPTER II****POWERS**

Sections:

4. Powers of the City.
5. Construction of Powers.

**Section 4. Powers of the City.**

The city has all powers which the Constitutions, statutes, and common law of the United States and of this state expressly or impliedly grant or allow municipalities, as fully as though this Charter specifically enumerated each of those powers.

**Section 5. Construction of Powers.**

In this Charter no mention of a particular power is exclusive or restricts the scope of the powers which the city would have if the particular power were not mentioned. The Charter shall be liberally construed, so that, within the limits imposed by the Charter or the Constitution or laws of the United States or the State of Oregon, the city has all powers necessary or convenient for conducting its affairs, including all powers that cities may now or hereafter assume under the home rule provisions of the Constitution and laws of Oregon. The powers are continuing powers.

**CHAPTER III**  
**FORM OF GOVERNMENT**

election. No person may be a candidate for the offices of mayor and councilmember at the same election. The council shall be final judge of the qualifications and election of its own members.

Sections:

6. Where Powers Vested.
7. Council.
8. Councilmembers.
9. Mayor.
10. Appointive Officers.
11. Salaries.
12. Qualifications of Elected Officers.

**Section 6. Where Powers Vested.**

Except as this Charter provides otherwise, all powers of the city are vested in the council.

**Section 7. Council.**

The council shall consist of a mayor and six (6) councilmembers elected from the city at large.

**Section 8. Councilmembers.**

The term of office of each councilmember in office when this Charter is adopted shall continue for the term for which each was elected. At each subsequent biennial general election, three (3) councilmembers shall be elected, each for a term of four (4) years.

**Section 9. Mayor.**

The present mayor shall serve the remainder of his term and at the general election of the year 1986, and every two years thereafter, a mayor shall be elected for a term of two years.

**Section 10. Appointive Officers.**

Additional officers of the city are a city manager/recorder and a municipal judge, each of whom the council shall appoint and may remove by majority vote of all members of the council. The municipal judge shall not be subject in judicial functions to supervision by any other officer.

**Section 11. Salaries.**

The council shall fix the amount of compensation for city officers and shall approve a compensation plan for city employees.

**Section 12. Qualifications of Elected Officers.**

No person shall be eligible for an elective office of the city unless at the time of election this person is a qualified elector within the meaning of the state Constitution and has resided in the city during the twelve (12) months immediately preceding the

**CHAPTER IV**  
**COUNCIL**

## Sections:

13. Meetings.
14. Quorum.
15. Record of Proceedings.
16. Proceedings to be Public.
17. Mayor's Function at Council Meetings.
18. President of the Council.
19. Vote Required.

**Section 13. Meetings.**

The council shall hold a regular meeting at least once each month in the city at a time and a place which it designates. It shall adopt rules for the government of its members and proceedings.

**Section 14. Quorum.**

A majority of the incumbent members of the council shall constitute a quorum for its business, but a smaller number may meet and compel the attendance of absent members in a manner provided by ordinance.

**Section 15. Record of Proceedings.**

The council shall cause a record of its proceedings to be kept. Except where exempted by state law, the council record of proceedings shall be public and available for inspection during business hours.

**Section 16. Proceedings to be Public.**

All deliberations and proceedings of the council shall be public except as otherwise authorized by state law.

**Section 17. Mayor's Function at Council Meetings.**

The mayor shall preside over council deliberations and shall have a vote on all questions before the council. The mayor shall preserve order, enforce the rules of the council, and determine the order of business under the rules of the council.

**Section 18. President of the Council.**

At the first meeting after this Charter takes effect and thereafter at its first meeting of each odd-numbered year, the council shall elect a president from its membership. In the mayor's absence from a council meeting, the president shall preside. Whenever the council determines that the mayor is unable to perform the functions of the office, the

president shall act as mayor. A president of the council shall cast only one (1) vote on an issue before the council.

**Section 19. Vote Required.**

Except as this Charter otherwise provides, the concurrence of a majority of members of the council voting when a quorum of the council is present shall decide any question before it. No councilmember present at a council meeting shall abstain from voting without first stating reasons in detail at the meeting.

## CHAPTER V

### POWERS AND DUTIES OF OFFICERS

Sections:

- 20. Mayor.
- 21. Municipal Judge.
- 22. City Manager.
- 23. City Manager Vacancy.
- 24. Powers and Duties of the City Manager.
- 25. City Manager — Seat at Meetings.
- 26. Interference in Administration and Elections.

#### Section 20. Mayor.

The mayor shall appoint the council committees provided by the Rules of the Council. The mayor shall sign all records of proceedings approved by the council, countersign all orders of the city treasurer and all instruments and writings authorized by this Charter, the laws of the state or the council. The mayor shall have no veto power and shall sign all ordinances passed by the council within three (3) days after their passage.

#### Section 21. Municipal Judge.

(1) The municipal judge shall be the judicial officer of the city and shall hold within the city a court known as the municipal court for the City of Silverton, Marion County, Oregon. The court shall be open for the transaction of judicial business at times specified by the council. All areas within the city shall be within the territorial jurisdiction of the court. The municipal judge shall exercise original and exclusive jurisdiction of all offenses defined or authorized by ordinances of the city.

(2) The municipal judge shall have authority

(a) to issue process for the arrest of any person accused of an offense against the ordinances of the city,

(b) to commit any such person to jail or admit to bail pending trial,

(c) to issue and compel obedience to subpoenas,

(d) to compel witnesses to appear and testify in court on the trial of any cause before the court,

(e) to issue any process necessary to carry into effect the judgements of the court,

(f) to punish witnesses and others for contempt of court, and

(g) to issue search warrants.

When not governed by ordinances or this Charter, all proceedings in the municipal court for the violation of a city ordinance shall be governed by

the applicable general laws of the state governing justices of the peace and justice courts.

(3) Notwithstanding this section or Section 10 of this Charter, the council may provide for the transfer of powers and duties of the municipal court to the appropriate court of the State of Oregon.

#### Section 22. City Manager.

(1) The council shall appoint a city manager for an indefinite term who shall hold office at the pleasure of the council and may be removed from office at any time with or without cause by majority vote of the entire council. The manager shall be chosen without regard to political considerations and solely on the basis of executive, educational, and administrative considerations. The manager need not be a resident of the state at the time of appointment, but within one (1) year thereafter, shall become, and remain during tenure, a resident of the city of Silverton. The council may enter into a contract with the manager stating terms and conditions of employment.

(2) Before taking office, the manager shall give a bond in an amount and with such surety as is approved by the council. The premiums on the bond shall be paid by the city.

#### Section 23. City Manager Vacancy.

(1) When the manager is disabled from acting as manager, or when the office becomes vacant, the council shall appoint a manager pro tem who shall possess the powers and duties of the manager. The manager pro tem may appoint or dismiss a department head or other employee only with the concurrence of four (4) members of the entire council. The manager pro tem shall not hold the position for more than six (6) months.

(2) If a vacancy occurs in the office of the manager, the council at its next meeting shall adopt a resolution of its intent to appoint another manager. Not later than six (6) months after adopting the resolution, the council shall appoint a manager to fill the vacancy.

#### Section 24. Powers and Duties of the City Manager.

The manager shall be the chief administrative officer. The manager may head one or more departments and shall be responsible to the city council for the proper administration of the city. To that end, the manager shall:

(1) See that all ordinances are enforced;

(2) Appoint all heads of departments and other city employees on the basis of merit and fitness

alone and suspend or remove all employees of the city at the manager's pleasure, except as limited by this Charter and except as the manager may authorize heads of departments to appoint, suspend or remove subordinates in such departments;

(3) Supervise or cause to be supervised any employees and to have general control of any employees to include but not limited to disciplining, assigning duties and accounting for performance;

(4) See that provisions of all franchises, contracts, leases and permits and privileges granted by the city are fully enforced and observed;

(5) Attend all meetings of the council unless excused by the mayor;

(6) Organize, disband, or reorganize departments, reassign employees to perform work in other departments or to work in more than one of said offices or departments provided that no such changes shall affect the powers or duties of any elective officer of the city;

(7) Keep the council advised as to the needs of the city;

(8) Prepare the annual budget;

(9) Prepare and furnish reports as requested by the council;

(10) Supervise the purchase of supplies, equipment and materials for which funds are provided in the budget and execute all contracts;

(11) Control, subject to ordinances as may from time to time be adopted, public utilities owned or operated by the city;

(12) Have general supervision over all city property and its use by the public or city employees;

(13) Devote full-time to the discharge of duties of the office;

(14) At the manager's discretion, appoint advisory boards as desirable to assist or advise in work, provided no compensation is given to members of the boards;

(15) Perform such other duties as required by this Charter or as the council may require; and

(16) Serve as city recorder.

#### **Section 25. City Manager — Seat at Meetings.**

The manager and such other officers or employees of the city as the council designates shall be entitled to seats with the council, but shall have no vote on questions before the council. The manager shall have the right to take part in the discussion of all matters coming before the council.

#### **Section 26. Interference in Administration and Elections.**

(1) A member of the council shall not directly or indirectly, by suggestion or otherwise, attempt to influence the manager in making an appointment or in removal of an employee or purchasing supplies, or attempt to exact a promise relative to an appointment from any candidate for manager.

(2) A violation of this section forfeits the office of the offending member of the council, who may be removed by the council or a court of competent jurisdiction. The council may, however, in session, discuss with or suggest to the manager anything pertinent to city affairs or the interests of the city. Further, a councilmember may, at any time, request and receive from the manager or any other city employee information to which a private citizen is entitled.

**CHAPTER VI**  
**ELECTIONS**

Sections:

- 27. Regulation of Elections.
- 28. Tie Votes.
- 29. Commencement of Terms of Office.
- 30. Oath of Office.
- 31. Nominations.

**Section 27. Regulation of Elections.**

Except as this Charter provides otherwise and as the council provides otherwise by ordinances relating to elections, the general laws of the State of Oregon shall apply to all city elections.

**Section 28. Tie Votes.**

In the event of a tie vote for candidates for an elective office, the successful candidate shall be determined by a public drawing of lots in a manner prescribed by the council.

**Section 29. Commencement of Terms of Office.**

The term of office of a person elected at a regular city election shall commence on the first council meeting of the year immediately following the election.

**Section 30. Oath of Office.**

Before entering upon the duties of office, each officer shall take an oath or shall affirm to support the Constitutions and laws of the United States and of the State of Oregon and to faithfully perform the duties of office.

**Section 31. Nominations.**

(1) A qualified elector who will have resided in the city during the 12 months preceding an election may be nominated for an elective city office to be filled at the election.

(2) A nomination may be by a prescribed petition that specifies the office sought. Nomination may also be made by filing a declaration of candidacy accompanied by a filing fee as determined by the council.

(3) The petition shall be signed by not fewer than 20 electors and shall include an affidavit of the circulator thereof, indicating the number of signers of the petition and stating that each signature was made in the presence of the circulator and is the genuine signature of the person whose name it purports to be. Nomination petition signatures shall be

certified with the elections clerk of Marion County before the petition is filed with the city recorder.

(4) Upon such certification of the signatures, all nomination papers shall be filed with the city recorder within the time limits as required by state and county election laws and regulations. The recorder shall make a record of the exact time at which each petition is filed and shall take and preserve the name and address of the person by whom it is filed. If the petition is insufficient, the city recorder shall notify the person who filed the petition within five (5) days after the filing. The deficient petition may be amended and filed again as a new petition, or a substitute petition for the same candidate may be filed within the regular time for filing nomination petitions.

(5) The recorder shall notify an eligible person of a nomination, and that person shall file with the recorder written acceptance of nomination within five (5) days of notification of nomination. Upon receipt of the acceptance of nomination, the recorder shall cause the nominee's name to be printed on the ballot. The petition of nomination or declaration of candidacy for a successful candidate at an election shall be preserved in the office of the recorder until the term of office for which the candidate is elected expires.

**CHAPTER VII****VACANCIES IN OFFICE**

## Sections:

32. What Creates Vacancy.

33. Filling of Vacancies.

**Section 32. What Creates Vacancy.**

(1) An office shall be deemed vacant upon:

- (a) the incumbent's death,
- (b) adjudicated incompetence,
- (c) conviction of a felony,
- (d) unlawful destruction of public records,
- (e) resignation,
- (f) recall from office,
- (g) removal of residency from the city,
- (h) ceasing to possess the qualifications for the office, or

(i) upon the failure of the person elected or appointed to the office to qualify within ten (10) days after the time for the term of office to commence.

(2) In the case of a mayor or councilmember an office also becomes vacant upon the incumbent's absence from the city for thirty (30) days without the consent of the council or upon an absence from meetings of the council for sixty (60) days without like consent, and upon a declaration by the council of the vacancy.

**Section 33. Filling of Vacancies.**

Vacant elective city offices shall be filled by appointment by a majority vote of the remaining members of the council. The appointee's term of office begins immediately on appointment and continues throughout the unexpired term of the appointee's predecessor.

**CHAPTER VIII****ORDINANCES**

## Sections:

34. Enacting Clause.

35. Mode of Enactment.

36. When Ordinances Take Effect.

**Section 34. Enacting Clause.**

The enacting clause of all ordinances hereafter passed shall be, "The City of Silverton ordains as follows:".

**Section 35. Mode of Enactment.**

(1) Except as subsections (2) and (3) provide to the contrary, an ordinance shall, before enactment, be read fully and distinctly in open council meeting on two different days.

(2) Except as subsection (3) allows both readings by title only, an ordinance may be enacted at a single council meeting by unanimous vote of all councilmembers present after being read first in full and then by title.

(3) Any of the readings may be by title only if:

(a) no councilmember present at the meeting requests that the ordinance be read in full, or

(b) a copy of the ordinance is provided for each councilmember, three (3) copies are provided for public inspection in the office of the city recorder not later than one week before the first reading of the ordinance, and notice of the availability of copies is given by written posting at city hall or by publication in a newspaper of general circulation in the city not later than one week before the reading.

(4) An ordinance:

(a) enacted after being read by title only, under the provisions of subsection (3), shall have no legal effect if it differs from its terms as filed prior to the reading, unless each section incorporating such a difference is read fully and distinctly in open council meeting as finally amended prior to being approved by the council.

(b) may be amended at the time of enactment if the ordinance as amended deals with the same general subject.

(5) On the final vote on an ordinance, the ayes and nays of the members of the council shall be taken and entered in the record of proceedings.

(6) On the enactment of an ordinance, the city manager/recorder shall endorse it with the date of enactment. Within three days thereafter, the mayor shall sign the ordinance.

**Section 36. When Ordinances Take Effect.**

An ordinance enacted by the council shall take effect on the thirtieth (30th) day after its enactment. When the council deems it advisable, however, an ordinance may provide a later time for it to take effect, and in case of an emergency, it may take effect immediately.

**CHAPTER IX**

**PUBLIC IMPROVEMENTS**

Sections:

- 37. Condemnation.
- 38. Improvements.
- 39. Special Assessments.

**Section 37. Condemnation.**

Any necessity of taking property for the city by condemnation shall be determined by the council and declared by a resolution of the council describing the property and stating the uses to which it shall be devoted.

**Section 38. Improvements.**

(1) The procedure for making, altering, vacating, or abandoning a public improvement shall be governed by general ordinance or, to the extent not so governed, by the applicable state laws. Action on any proposed public improvement, except a water or sewer improvement declared by the council to be needed at once because of an emergency, shall be abandoned and not reinstated for six (6) months upon a remonstrance thereto by the owners of land which bears 66.66 percent (66.66%) of the estimated assessed cost of the improvement.

(2) In this section, "owner" shall mean the record holder of legal title, or if land is being purchased under a land sales contract recorded or verified in writing by the record holder of legal title, the purchaser shall be deemed the "owner."

**Section 39. Special Assessments.**

The procedure for levying, collecting, and enforcing the payment of special assessments for public improvements or other services to be charged against real property shall be governed by general ordinance.

**CHAPTER X**  
**MISCELLANEOUS PROVISIONS**

## Sections:

- 40. Debt Limit.
- 41. Existing Ordinances Continued.
- 42. Repeal of Previously Enacted Provisions.
- 43. Procedure for Amendment.
- 44. Severability.
- 45. Time of Effect of Charter.

**Section 40. Debt Limit.**

(1) Except by consent of the voters, the city's indebtedness shall be in accordance with state law. For purposes of calculating the limitation, however, the legally authorized debt of the city in existence at the time this Charter takes effect shall not be considered. All city officials and employees who create or officially approve any indebtedness in excess of this limitation shall be jointly and severally liable for the excess.

(2) The city council, by resolution, may authorize the issuance and sale of revenue bonds all or a major portion of the proceeds which are to be used directly or indirectly in any trade or business carried on by any private corporation, nonprofit corporation, partnership, limited partnership, individual or entity or combination of the same. The city council, by ordinance, shall adopt standards and procedures by which to determine when such bonds shall be issued and sold hereunder. The bonds shall be secured solely by security financed, provided or arranged by the private entity in whose trade or business the proceeds of such bonds are to be used. No holder or holders of such bonds shall ever have the right to compel any exercise of the taxing power of the city to pay any such bonds or the interest thereon, nor to enforce payment thereof against any money or property of the city, except bond proceeds, real or personal property financed with bond proceeds, and payments made by a private entity in respect of such property. The city council may loan the proceeds of such bonds to such a private entity, and may acquire and dispose of real or personal property financed with bond proceeds by lease, lease purchase, installment sale, or otherwise. The city council may take any other action necessary to effectuate the powers granted herein. The issuance and sale of bonds issued hereunder shall not be subject to referendum.

**Section 41. Existing Ordinances Continued.**

All ordinances of the city consistent with this Charter and in force when it takes effect shall remain in effect until amended or repealed.

**Section 42. Repeal of Previously Enacted Provisions.**

(1) All Charter provisions of the city enacted prior to the time that this Charter takes effect are hereby repealed.

(2) The repeal of the 1940 Charter, as amended, does not affect the validity of an outstanding bond issued by the city or impair the obligation of the city under the bond, or the rights of the holders of the bond.

**Section 43. Procedure for Amendment.**

(1) Amendments to this Charter may be proposed by the city council by resolution duly adopted at any regular meeting of the council and, when so adopted, shall be submitted to a vote of the legal voters of the city upon the date of any election in the State of Oregon which may be held after giving notice as provided in this Charter.

(2) This Charter may also be amended by proposal under the initiative provisions of Oregon statutes by a petition duly signed by an appropriate number of qualified electors.

**Section 44. Severability.**

If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected. If the application of the Charter or any of its provisions to any person or circumstances is held invalid, the application of the Charter and its provisions to other persons or circumstances shall not be affected.

**Section 45. Time of Effect of Charter.**

This Charter shall take effect, if approved by the voters, five (5) days following the official canvass of votes cast at the November 5, 1985 election.

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# **APPENDIX D**

## **Chapter 2.04 Silverton Municipal Code – City Council**

**Chapter 2.04****CITY COUNCIL**

## Sections:

- 2.04.010 City representation authority – Limitations.
- 2.04.020 Regular meetings.
- 2.04.030 Special meetings – Authorized when.
- 2.04.040 Special meetings – Notice required.
- 2.04.050 Joint meetings.
- 2.04.060 Emergency meetings.
- 2.04.070 Conduct of meetings.
- 2.04.080 Order of business.
- 2.04.090 Executive sessions.
- 2.04.100 Voting requirements.
- 2.04.110 Meeting attendance.
- 2.04.120 Nonattendance of meetings grounds for removal.
- 2.04.130 Excused absence from meeting.

**2.04.010 City representation authority – Limitations.**

All business of the city shall be transacted, determined and adopted by the city council at either regular, special or emergency meetings. No council member or other city official shall at any time presume to act for and in behalf of the city, or determine its policies, without council authorization at a legal council meeting. This restriction shall not apply to the duties and powers of the city manager, as contained in the City Charter, and the city manager shall remain vested with all of the power and authority to act for and in behalf of the city as granted to this office under the City Charter. (Ord. 842 § 6, 1986)

**2.04.020 Regular meetings.**

Regular meetings of the city council shall be held at 7:00 p.m. on the first Monday of each month. When the first Monday of a month falls on a legal holiday, or on a day that a legal holiday is celebrated, the meeting shall be held on the second Monday of that month. Failure to officially notify council members of the date, time, place and purpose of regular council meetings shall not affect the validity of such meetings. (Ord. 93-122 § 1, 1993; Ord. 850 § 1, 1987; Ord. 842 § 1, 1986)

**2.04.030 Special meetings – Authorized when.**

Special meetings of the council may be called by the mayor, city manager, or at least three members of the council at any time, except Sundays or legal

holidays, for the purpose of transacting city business. (Ord. 842 § 2, 1986)

**2.04.040 Special meetings – Notice required.**

A. Notice of a special council meeting shall be given to each councilmember by delivering, at least 48 hours prior to the time set for such meeting, a notice in writing stating the date, time, place and nature of the business to be considered by the council.

B. Notice shall also be given to the people of the city, by notification to a newspaper of general circulation, or posting at City Hall at least 24 hours in advance of the special meeting. (Ord. 842 § 3, 1986)

**2.04.050 Joint meetings.**

Joint meetings of the city council and planning commission, or similar body, may be called in accordance with SMC 2.04.030. (Ord. 842 § 5, 1986)

**2.04.060 Emergency meetings.**

Emergency meetings of the city council may be held upon such notice as is appropriate to the circumstances. (Ord. 842 § 4, 1986)

**2.04.070 Conduct of meetings.**

Proceedings of the council shall be conducted in conformity with the provisions of the City Charter, applicable Oregon law, this chapter, and the rules of the council. All parliamentary questions shall be governed by Robert's Rules of Order, as revised. (Ord. 842 § 7, 1986)

**2.04.080 Order of business.**

The order of business for council meetings shall be substantially in the following form, and may be amended by the city manager or mayor:

- A. Roll call;
- B. Minutes;
- C. Public comment;
- D. Council discussion;
- E. Action items;
- F. Reports/communications;
- G. Executive session;
- H. Adjournment. (Ord. 842 § 8, 1986)

**2.04.090 Executive sessions.**

The council may adjourn to executive session during any meeting, after observing the requirements of Oregon Revised Statutes 192.660. (Ord. 842 § 10, 1986)

**2.04.100 Voting requirements.**

Every councilmember who is present when a vote is taken on any matter shall vote for or against, unless excused under the provisions of Oregon Conflict of Interest Laws. No councilmember shall be permitted to vote on a question unless present. (Ord. 842 § 9, 1986)

**2.04.110 Meeting attendance.**

Failure of any member of the city council, planning commission or other duly authorized board, committee, commission or authority, to attend three consecutive regular and/or special meetings during a calendar year without having been excused by the particular governing body or failure to attend six regular meetings in a 12-month period, whether excused or not excused, is presumed to be in nonperformance of duty. (Ord. 97-106, 1997; Ord. 93-115, 1993; Ord. 92-100 § 1, 1992)

**2.04.120 Nonattendance of meetings grounds for removal.**

Nonattendance by any councilmember, planning commission member or other duly authorized board, committee, commission or authority member at six meetings during a calendar year, or three consecutive nonexcused meetings shall automatically cause the position to be declared vacant and the nonattending member shall be removed. His or her remaining term shall be filled by appointment of the mayor with the approval of the council. (Ord. 97-106, 1997; Ord. 93-115, 1993; Ord. 92-100 § 1, 1992)

**2.04.130 Excused absence from meeting.**

Excused absences shall mean those absences from meetings that are approved by a majority vote of the particular governing body which is affected. (Ord. 92-100 § 1, 1992)

# **APPENDIX E**

**Section(s) 192.610-710  
Oregon Revised Statutes –  
Oregon Open Meeting Law**

## PUBLIC MEETINGS

### **192.610 Definitions for ORS 192.610 to 192.690.** As used in ORS 192.610 to 192.690:

(1) "Decision" means any determination, action, vote or final disposition upon a motion, proposal, resolution, order, ordinance or measure on which a vote of a governing body is required, at any meeting at which a quorum is present.

(2) "Executive session" means any meeting or part of a meeting of a governing body which is closed to certain persons for deliberation on certain matters.

(3) "Governing body" means the members of any public body which consists of two or more members, with the authority to make decisions for or recommendations to a public body on policy or administration.

(4) "Public body" means the state, any regional council, county, city or district, or any municipal or public corporation, or any board, department, commission, council, bureau, committee or subcommittee or advisory group or any other agency thereof.

(5) "Meeting" means the convening of a governing body of a public body for which a quorum is required in order to make a decision or to deliberate toward a decision on any matter. "Meeting" does not include any on-site inspection of any project or program. "Meeting" also does not include the attendance of members of a governing body at any national, regional or state association to which the public body or the members belong. [1973 c.172 §2; 1979 c.644 §1]

**192.620 Policy.** The Oregon form of government requires an informed public aware of the deliberations and decisions of governing bodies and the information upon which such decisions were made. It is the intent of ORS 192.610 to 192.690 that decisions of governing bodies be arrived at openly. [1973 c.172 §1]

**192.630 Meetings of governing body to be open to public; location of meetings; accommodation for person with disability; interpreters.** (1) All meetings of the governing body of a public body shall be open to the public and all persons shall be permitted to attend any meeting except as otherwise provided by ORS 192.610 to 192.690.

(2) A quorum of a governing body may not meet in private for the purpose of deciding on or deliberating toward a decision on any matter except as otherwise provided by ORS 192.610 to 192.690.

(3) A governing body may not hold a meeting at any place where discrimination on the basis of race, color, creed, sex, sexual orientation, national origin, age or disability is practiced. However, the fact that organizations with restricted membership hold meetings at the place does not restrict its use by a public body if use of the place by a restricted membership organization is not the primary purpose of the place or its predominate use.

(4) Meetings of the governing body of a public body shall be held within the geographic boundaries over which the public body has jurisdiction, or at the administrative headquarters of the public body or at the other nearest practical location. Training sessions may be held outside the jurisdiction as long as no deliberations toward a decision are involved. A joint meeting of two or more governing bodies or of one or more governing bodies and the elected officials of one or more federally recognized Oregon Indian tribes shall be held within the geographic boundaries over which one of the participating public bodies or one of the Oregon Indian tribes has jurisdiction or at the nearest practical location. Meetings may be held in locations other than those described in this subsection in the event of an actual emergency necessitating immediate action.

(5)(a) It is discrimination on the basis of disability for a governing body of a public body to meet in a place inaccessible to persons with disabilities, or, upon request of a person who is deaf or hard of hearing, to fail to make a

good faith effort to have an interpreter for persons who are deaf or hard of hearing provided at a regularly scheduled meeting. The sole remedy for discrimination on the basis of disability shall be as provided in ORS 192.680.

(b) The person requesting the interpreter shall give the governing body at least 48 hours' notice of the request for an interpreter, shall provide the name of the requester, sign language preference and any other relevant information the governing body may request.

(c) If a meeting is held upon less than 48 hours' notice, reasonable effort shall be made to have an interpreter present, but the requirement for an interpreter does not apply to emergency meetings.

(d) If certification of interpreters occurs under state or federal law, the Oregon Health Authority or other state or local agency shall try to refer only certified interpreters to governing bodies for purposes of this subsection.

(e) As used in this subsection, "good faith effort" includes, but is not limited to, contacting the department or other state or local agency that maintains a list of qualified interpreters and arranging for the referral of one or more qualified interpreters to provide interpreter services. [1973 c.172 §3; 1979 c.644 §2; 1989 c.1019 §1; 1995 c.626 §1; 2003 c.14 §95; 2005 c.663 §12; 2007 c.70 §52; 2007 c.100 §21; 2009 c.595 §173]

**192.640 Public notice required; special notice for executive sessions, special or emergency meetings.** (1) The governing body of a public body shall provide for and give public notice, reasonably calculated to give actual notice to interested persons including news media which have requested notice, of the time and place for holding regular meetings. The notice shall also include a list of the principal subjects anticipated to be considered at the meeting, but this requirement shall not limit the ability of a governing body to consider additional subjects.

(2) If an executive session only will be held, the notice shall be given to the members of the governing body, to the general public and to news media which have requested notice, stating the specific provision of law authorizing the executive session.

(3) No special meeting shall be held without at least 24 hours' notice to the members of the governing body, the news media which have requested notice and the general public. In case of an actual emergency, a meeting may be held upon such notice as is appropriate to the circumstances, but the minutes for such a meeting shall describe the emergency justifying less than 24 hours' notice. [1973 c.172 §4; 1979 c.644 §3; 1981 c.182 §1]

**192.650 Recording or written minutes required; content; fees.** (1) The governing body of a public body shall provide for the sound, video or digital recording or the taking of written minutes of all its meetings. Neither a full transcript nor a full recording of the meeting is required, except as otherwise provided by law, but the written minutes or recording must give a true reflection of the matters discussed at the meeting and the views of the participants. All minutes or recordings shall be available to the public within a reasonable time after the meeting, and shall include at least the following information:

(a) All members of the governing body present;

(b) All motions, proposals, resolutions, orders, ordinances and measures proposed and their disposition;

(c) The results of all votes and, except for public bodies consisting of more than 25 members unless requested by a member of that body, the vote of each member by name;

(d) The substance of any discussion on any matter; and

(e) Subject to ORS 192.410 to 192.505 relating to public records, a reference to any document discussed at the meeting.

(2) Minutes of executive sessions shall be kept in accordance with subsection (1) of this section. However, the minutes of a hearing held under ORS 332.061 shall contain only the material not excluded under ORS 332.061 (2). Instead of written minutes, a record of any executive session may be kept in the form of a sound or video tape or digital recording, which need not be transcribed unless otherwise provided by law. If the disclosure of certain material is inconsistent with the purpose for which a meeting under ORS 192.660 is authorized to be held, that material may be excluded from disclosure. However, excluded materials are authorized to be examined privately by a court in any legal action and the court shall determine their admissibility.

(3) A reference in minutes or a recording to a document discussed at a meeting of a governing body of a public body does not affect the status of the document under ORS 192.410 to 192.505.

(4) A public body may charge a person a fee under ORS 192.440 for the preparation of a transcript from a recording. [1973 c.172 §5; 1975 c.664 §1; 1979 c.644 §4; 1999 c.59 §44; 2003 c.803 §14]

**192.660 Executive sessions permitted on certain matters; procedures; news media representatives' attendance; limits.** (1) ORS 192.610 to 192.690 do not prevent the governing body of a public body from holding executive session during a regular, special or emergency meeting, after the presiding officer has identified the authorization under ORS 192.610 to 192.690 for holding the executive session.

(2) The governing body of a public body may hold an executive session:

(a) To consider the employment of a public officer, employee, staff member or individual agent.

(b) To consider the dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent who does not request an open hearing.

(c) To consider matters pertaining to the function of the medical staff of a public hospital licensed pursuant to ORS 441.015 to 441.063 including, but not limited to, all clinical committees, executive, credentials, utilization review, peer review committees and all other matters relating to medical competency in the hospital.

(d) To conduct deliberations with persons designated by the governing body to carry on labor negotiations.

(e) To conduct deliberations with persons designated by the governing body to negotiate real property transactions.

(f) To consider information or records that are exempt by law from public inspection.

(g) To consider preliminary negotiations involving matters of trade or commerce in which the governing body is in competition with governing bodies in other states or nations.

(h) To consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed.

(i) To review and evaluate the employment-related performance of the chief executive officer of any public body, a public officer, employee or staff member who does not request an open hearing.

(j) To carry on negotiations under ORS chapter 293 with private persons or businesses regarding proposed acquisition, exchange or liquidation of public investments.

(k) If the governing body is a health professional regulatory board, to consider information obtained as part of an investigation of licensee or applicant conduct.

(L) If the governing body is the State Landscape Architect Board, or an advisory committee to the board, to consider information obtained as part of an investigation of registrant or applicant conduct.

(m) To discuss information about review or approval of programs relating to the security of any of the following:

(A) A nuclear-powered thermal power plant or nuclear installation.

(B) Transportation of radioactive material derived from or destined for a nuclear-fueled thermal power plant or nuclear installation.

(C) Generation, storage or conveyance of:

(i) Electricity;

(ii) Gas in liquefied or gaseous form;

(iii) Hazardous substances as defined in ORS 453.005 (7)(a), (b) and (d);

(iv) Petroleum products;

(v) Sewage; or

(vi) Water.

(D) Telecommunication systems, including cellular, wireless or radio systems.

(E) Data transmissions by whatever means provided.

(3) Labor negotiations shall be conducted in open meetings unless negotiators for both sides request that negotiations be conducted in executive session. Labor negotiations conducted in executive session are not subject to the notification requirements of ORS 192.640.

(4) Representatives of the news media shall be allowed to attend executive sessions other than those held under subsection (2)(d) of this section relating to labor negotiations or executive session held pursuant to ORS 332.061 (2) but the governing body may require that specified information be undisclosed.

(5) When a governing body convenes an executive session under subsection (2)(h) of this section relating to conferring with counsel on current litigation or litigation likely to be filed, the governing body shall bar any member of the news media from attending the executive session if the member of the news media is a party to the litigation or is an employee, agent or contractor of a news media organization that is a party to the litigation.

(6) No executive session may be held for the purpose of taking any final action or making any final decision.

(7) The exception granted by subsection (2)(a) of this section does not apply to:

(a) The filling of a vacancy in an elective office.

(b) The filling of a vacancy on any public committee, commission or other advisory group.

(c) The consideration of general employment policies.

(d) The employment of the chief executive officer, other public officers, employees and staff members of a public body unless:

(A) The public body has advertised the vacancy;

(B) The public body has adopted regular hiring procedures;

(C) In the case of an officer, the public has had the opportunity to comment on the employment of the officer; and

(D) In the case of a chief executive officer, the governing body has adopted hiring standards, criteria and policy directives in meetings open to the public in which the public has had the opportunity to comment on the standards, criteria and policy directives.

(8) A governing body may not use an executive session for purposes of evaluating a chief executive officer or other officer, employee or staff member to conduct a general evaluation of an agency goal, objective or operation or any directive to personnel concerning agency goals, objectives, operations or programs.

(9) Notwithstanding subsections (2) and (6) of this section and ORS 192.650:

(a) ORS 676.175 governs the public disclosure of minutes, transcripts or recordings relating to the substance and disposition of licensee or applicant conduct investigated by a health professional regulatory board.

(b) ORS 671.338 governs the public disclosure of minutes, transcripts or recordings relating to the substance and disposition of registrant or applicant conduct investigated by the State Landscape Architect Board or an advisory committee to the board. [1973 c.172 §6; 1975 c.664 §2; 1979 c.644 §5; 1981 c.302 §1; 1983 c.453 §1; 1985 c.657 §2; 1995 c.779 §1; 1997 c.173 §1; 1997 c.594 §1; 1997 c.791 §9; 2001 c.950 §10; 2003 c.524 §4; 2005 c.22 §134; 2007 c.602 §11; 2009 c.792 §32]

**192.670 Meetings by means of telephone or electronic communication.** (1) Any meeting, including an executive session, of a governing body of a public body which is held through the use of telephone or other electronic communication shall be conducted in accordance with ORS 192.610 to 192.690.

(2) When telephone or other electronic means of communication is used and the meeting is not an executive session, the governing body of the public body shall make available to the public at least one place where, or at least one electronic means by which, the public can listen to the communication at the time it occurs. A place provided may be a place where no member of the governing body of the public body is present. [1973 c.172 §7; 1979 c.361 §1; 2011 c.272 §2]

**192.672 State board or commission meetings through telephone or electronic means; compensation and reimbursement.** (1) A state board or commission may meet through telephone or other electronic means in accordance with ORS 192.610 to 192.690.

(2)(a) Notwithstanding ORS 171.072 or 292.495, a member of a state board or commission who attends a meeting through telephone or other electronic means is not entitled to compensation or reimbursement for expenses for attending the meeting.

(b) A state board or commission may compensate or reimburse a member, other than a member who is a member of the Legislative Assembly, who attends a meeting through telephone or other electronic means as provided in ORS 292.495 at the discretion of the board or commission. [2011 c.272 §1]

**Note:** 192.672 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 192 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**192.680 Enforcement of ORS 192.610 to 192.690; effect of violation on validity of decision of governing body; liability of members.** (1) A decision made by a governing body of a public body in violation of ORS 192.610 to 192.690 shall be voidable. The decision shall not be voided if the governing body of the public body reinstates the decision while in compliance with ORS 192.610 to 192.690. A decision that is reinstated is effective from the date of its initial adoption.

(2) Any person affected by a decision of a governing body of a public body may commence a suit in the circuit court for the county in which the governing body ordinarily meets, for the purpose of requiring compliance with, or the prevention of violations of ORS 192.610 to 192.690, by members of the governing body, or to determine the applicability of ORS 192.610 to 192.690 to matters or decisions of the governing body.

(3) Notwithstanding subsection (1) of this section, if the court finds that the public body made a decision while in violation of ORS 192.610 to 192.690, the court shall void the decision of the governing body if the court finds that the violation was the result of intentional disregard of the law or willful misconduct by a quorum of the members of the governing body, unless other equitable relief is available. The court may order such equitable relief as it deems appropriate in the circumstances. The court may order payment to a successful plaintiff in a suit brought under this section of reasonable attorney fees at trial and on appeal, by the governing body, or public body of which it is a part or to which it reports.

(4) If the court makes a finding that a violation of ORS 192.610 to 192.690 has occurred under subsection (2) of this section and that the violation is the result of willful misconduct by any member or members of the governing body, that member or members shall be jointly and severally liable to the governing body or the public body of which it is a part for the amount paid by the body under subsection (3) of this section.

(5) Any suit brought under subsection (2) of this section must be commenced within 60 days following the date that the decision becomes public record.

(6) The provisions of this section shall be the exclusive remedy for an alleged violation of ORS 192.610 to 192.690. [1973 c.172 §8; 1975 c.664 §3; 1979 c.644 §6; 1981 c.897 §42; 1983 c.453 §2; 1989 c.544 §1]

**192.685 Additional enforcement of alleged violations of ORS 192.660.** (1) Notwithstanding ORS 192.680, complaints of violations of ORS 192.660 alleged to have been committed by public officials may be made to the Oregon Government Ethics Commission for review and investigation as provided by ORS 244.260 and for possible imposition of civil penalties as provided by ORS 244.350.

(2) The commission may interview witnesses, review minutes and other records and may obtain and consider any other information pertaining to executive sessions of the governing body of a public body for purposes of determining whether a violation of ORS 192.660 occurred. Information related to an executive session conducted for a purpose authorized by ORS 192.660 shall be made available to the Oregon Government Ethics Commission for its investigation but shall be excluded from public disclosure.

(3) If the commission chooses not to pursue a complaint of a violation brought under subsection (1) of this section at any time before conclusion of a contested case hearing, the public official against whom the complaint was brought may be entitled to reimbursement of reasonable costs and attorney fees by the public body to which the official's governing body has authority to make recommendations or for which the official's governing body has authority to make decisions. [1993 c.743 §28]

**192.690 Exceptions to ORS 192.610 to 192.690.** (1) ORS 192.610 to 192.690 do not apply to the deliberations of the Oregon Health Authority conducted under ORS 161.315 to 161.351, the Psychiatric Security Review Board, the State Board of Parole and Post-Prison Supervision, state agencies conducting hearings on contested cases in

accordance with the provisions of ORS chapter 183, the review by the Workers' Compensation Board or the Employment Appeals Board of similar hearings on contested cases, meetings of the state lawyers assistance committee operating under the provisions of ORS 9.568, meetings of the personal and practice management assistance committees operating under the provisions of ORS 9.568, the county multidisciplinary child abuse teams required to review child abuse cases in accordance with the provisions of ORS 418.747, the child fatality review teams required to review child fatalities in accordance with the provisions of ORS 418.785, the peer review committees in accordance with the provisions of ORS 441.055, mediation conducted under ORS 36.250 to 36.270, any judicial proceeding, meetings of the Oregon Health and Science University Board of Directors or its designated committee regarding candidates for the position of president of the university or regarding sensitive business, financial or commercial matters of the university not customarily provided to competitors related to financings, mergers, acquisitions or joint ventures or related to the sale or other disposition of, or substantial change in use of, significant real or personal property, or related to health system strategies, or to Oregon Health and Science University faculty or staff committee meetings.

(2) Because of the grave risk to public health and safety that would be posed by misappropriation or misapplication of information considered during such review and approval, ORS 192.610 to 192.690 shall not apply to review and approval of security programs by the Energy Facility Siting Council pursuant to ORS 469.530. [1973 c.172 §9; 1975 c.606 §41b; 1977 c.380 §19; 1981 c.354 §3; 1983 c.617 §4; 1987 c.850 §3; 1989 c.6 §18; 1989 c.967 §§12,14; 1991 c.451 §3; 1993 c.18 §33; 1993 c.318 §§3,4; 1995 c.36 §§1,2; 1995 c.162 §§62b,62c; 1999 c.59 §§45a,46a; 1999 c.155 §4; 1999 c.171 §§4,5; 1999 c.291 §§25,26; 2005 c.347 §5; 2005 c.562 §23; 2007 c.796 §8; 2009 c.697 §11; 2011 c.708 §26]

**192.695 Prima facie evidence of violation required of plaintiff.** In any suit commenced under ORS 192.680 (2), the plaintiff shall be required to present prima facie evidence of a violation of ORS 192.610 to 192.690 before the governing body shall be required to prove that its acts in deliberating toward a decision complied with the law. When a plaintiff presents prima facie evidence of a violation of the open meetings law, the burden to prove that the provisions of ORS 192.610 to 192.690 were complied with shall be on the governing body. [1981 c.892 §97d; 1989 c.544 §3]

**Note:** 192.695 was added to and made a part of ORS chapter 192 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**192.710 Smoking in public meetings prohibited.** (1) No person shall smoke or carry any lighted smoking instrument in a room where a public meeting is being held or is to continue after a recess. For purposes of this subsection, a public meeting is being held from the time the agenda or meeting notice indicates the meeting is to commence regardless of the time it actually commences.

(2) As used in this section:

(a) "Public meeting" means any regular or special public meeting or hearing of a public body to exercise or advise in the exercise of any power of government in buildings or rooms rented, leased or owned by the State of Oregon or by any county, city or other political subdivision in the state regardless of whether a quorum is present or is required.

(b) "Public body" means the state or any department, agency, board or commission of the state or any county, city or other political subdivision in the state.

(c) "Smoking instrument" means any cigar, cigarette, pipe or other smoking equipment. [1973 c.168 §1; 1979 c.262 §1]