

**FIRCREST CITY COUNCIL  
SPECIAL MEETING AGENDA**

**MONDAY, MAY 21, 2018  
6:00 P.M.**

**COUNCIL CHAMBERS  
FIRCREST CITY HALL, 115 RAMSDELL STREET**

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- 1. Call To Order**
- 2. Pledge Of Allegiance**
- 3. Roll Call**
- 4. Agenda Modifications**
- 5. High Water Tank Painting/Mural**
- 6. Ruston Court**
- 7. Council Rules of Procedures Update**
- 8. Adjournment**

**2018 Capital Water Budget**

	<b>Budget</b>	<b>Projected</b>
<u>Ramsdell Water Project</u>		
construction	\$380,000	\$412,039
engineering	\$31,000	\$10,000
<b>TOTAL</b>	<b>\$411,000</b>	<b>\$422,039</b>
 <u>High tank painting</u>		
exterior coating	\$125,000	\$75,000
engineering	\$25,000	\$10,000
mural		\$27,300
<b>total</b>	<b>\$150,000</b>	<b>\$112,300</b>
 <b>budget total</b>	<b>\$561,000</b>	<b>\$534,339</b>
 Remaining with Mural		\$26,661
 Remaining w/out Mural		\$53,961





**AN INTERLOCAL AGREEMENT  
BETWEEN THE CITY OF FIRCREST  
AND  
THE CITY OF RUSTON  
FOR THE PROVISION OF MUNICIPAL COURT, PROSECUTION AND PUBLIC DEFENDER SERVICES**

**THIS INTERLOCAL AGREEMENT** ("AGREEMENT") is made and entered into pursuant to the Interlocal Cooperation Act, Chapter 39.34 of the Revised Code of Washington, on the 1<sup>st</sup> day of September 2018, by and between the City of Fircrest, a Washington municipal corporation ("Fircrest"), and the City of Ruston, a Washington Municipal corporation ("Ruston"), collectively referred to herein as the "parties".

**WHEREAS**, the City of Ruston, "Ruston" incorporated as a City in 1906 and assumed authority and jurisdiction with respect to criminal and traffic offense occurring within the corporate boundaries thereby created; and

**WHEREAS**, the City of Fircrest, "Fircrest" has the capacity to provide municipal court, prosecution, and public defender related services to Ruston in a manner beneficial to both parties and Ruston desires to use these services; and

**WHEREAS**, Fircrest and Ruston wish to cooperate and enter into this Agreement for the orderly and efficient processing of traffic infractions, parking infractions, criminal traffic cases, criminal non-traffic misdemeanors and any other matters within the jurisdiction of a Municipal Court through services provided by and held at Fircrest; and

**WHEREAS**, included in the services provided by Fircrest to Ruston shall be a detail of statistics identifying caseload, type of case and other matters of interest to Ruston; and

**WHEREAS**, the parties agree that provision of services as detailed in this Agreement are in the best interest of the citizens of both cities; and

**WHEREAS**, Title 39.34 of the Revised Code of Washington authorizes joint and cooperative Agreements between public agencies;

**NOW, THEREFORE**, pursuant to RCW Chapter 39.34, and in consideration of the mutual benefits and covenants described herein, the City of Fircrest and the City of Ruston agree as follows:

- A. Purpose.** The purpose of this Interlocal Agreement is to make all necessary arrangements for the processing of any matters within the jurisdiction of Ruston using municipal court (including a judge and court staff), prosecution, public defender and related services provided by Fircrest in Fircrest Municipal Court pursuant to RCW 39.34. This is to include any ancillary services such as statistical tracking; legal services such as ordinance work and any work related to appeals. Jail and Police services are specifically excluded from this Agreement.

**B. Services.** Fircrest, through this Agreement, shall **provide** the following services to Ruston:

1. Municipal Court Services. Municipal Court services include all court services required by State statute, court rule, Fircrest City ordinance, or other regulation as now existing or hereafter amended. These services include, as applicable, the filing, processing, adjudication and penalty enforcement of all City cases filed on September 1, 2018 or any date thereafter for the duration of this agreement, issuance of search and arrest warrants, procedures of establishing bail, arraignments and plea hearings, pretrial motions and evidentiary hearings, discovery matters, notification and subpoenaing of witnesses and parties, bench and jury trials, pre-sentence investigations, sentencing, the duties of courts of limited jurisdiction regarding appeals, and all other court functions as they relate to municipal court. Fircrest shall provide all necessary personnel to perform such services in a timely manner as required by law and court rule.
2. Appointment of Judicial Officers. Ruston has appointed the Fircrest Municipal Court Judge as the Judge of the Ruston Municipal Court and has appointed Fircrest Municipal Court Judges Pro Tem as Judges Pro Tem of the Ruston Municipal Court. In the event that Ruston appoints a judge other than the Fircrest Municipal Court Judge then Ruston shall consult with and consider input from the Fircrest City Manager during the appointment process. Any such appointments shall require further negotiation between the parties pursuant to Section D.1 of this Agreement.
3. Prosecution Services. All criminal cases covered by this Agreement shall be reviewed, filed and fully prosecuted by Fircrest City Prosecutor. Fircrest City Prosecutor shall have final case disposition authority on all cases except those assigned to outside counsel at the request of Ruston. Ruston shall support Fircrest's prosecution of Ruston cases fully, including attendance at hearings, production of evidence and coordinating with the assigned prosecutor as needed to properly process each case. The City Attorney for Ruston, or designee, shall be authorized to directly prosecute any matter within Ruston jurisdiction upon notice to Fircrest within 15 days of filing of the case. All prosecution services are to be provided to Ruston with sufficient input and direction from Ruston to ensure consistency with the best interests of the citizens of Ruston.
4. Public Defender Services. Public Defender services shall be provided to Ruston as an extension of the current agreement between Fircrest and the current Public Defender.
5. Other Services. Fircrest and Ruston shall communicate and exchange information sufficient to evaluate the adequacy of services provided for in this Agreement. Fircrest is expected to provide ancillary services, including statistical information and appellate work. Ruston shall be responsible for transporting all Ruston in-custody defendants from Pierce County Jail, Nisqually Jail or any other jail that houses Fircrest and Ruston defendants on misdemeanor or gross misdemeanor charges.
6. Matters Reserved to Fircrest. Fircrest reserves the right to implement matters requiring compliance with statutory and judicial mandates, which includes, but is not limited to, the Standards for Indigent Defense and personnel matters pursuant to General Rule 29 of the Washington Courts.



C. **Property.** This Interlocal Agreement does not provide for the acquisition, holding or disposal of real or personal property. Ruston Police shall be responsible for all items of evidence related to criminal prosecution.

D. **Financial Provisions.** In consideration for the services provided in this Agreement, the parties agree to the following:

1. In the event that Ruston appoints Fircrest's judge as judge of the Ruston Municipal Court, Ruston shall pay to Fircrest an annual fee of \_\_\_\_\_, which is based on a maximum of 2,500 total cases annually. The annual fee shall be determined based on the cost of the Fircrest Municipal Court and includes factors such as the cost of the courts system and administrative costs associated with running the court. The fee will be reviewed and adjusted on an annual basis. Ruston shall be notified of the changes to the calculation of court costs and administrative costs. In the event that Ruston does not appoint Fircrest's judge, this fee shall be renegotiated with the expectation that this amount will be greater. This fee shall be invoiced and paid monthly.
2. If Ruston cases exceed 2,500 cases during the calendar year, Ruston will pay \$80 per case over 2,500 total cases in addition to the annual fee.
3. It is expected that a Fircrest Police Officer will provide bailiff services during days when the municipal court is considering Ruston cases. Ruston agrees to pay the costs for such officer to provide this service. This amount will be separately accounted for in the monthly invoice.
4. Ruston shall retain all fees, costs, penalties and fines, assessed to Ruston cases for the duration of this Agreement. Any new programs established after the effective date of this Agreement shall not be included but shall be addressed by the parties in a separate amendment hereto.

E. **Agreement Administration.** The parties are expected to work cooperatively as though the employees of Fircrest are employees of Ruston when handling Ruston cases. The City Attorney for Ruston is to consult with Fircrest departments as necessary regarding the prosecution of Ruston cases. Interested Ruston employees are to be invited to interdepartmental meetings regarding Court process. Where necessary Ruston employees are to be available to Ruston employees and/or Council to discuss court process, prosecutorial philosophy or other matters of interest to Ruston.

1. **Dispute Resolution.** Disputes between the parties that cannot be resolved at the department level are to be resolved by the respective City Managers/Administrators. It is understood between the parties that this Agreement is of benefit to both parties and there is a common interest in working through issues to continue the Agreement.
2. **Reporting.** Fircrest shall provide Ruston with monthly reports summarizing court activity during which services are provided. Ruston shall identify any deficiencies in such monthly reports and, where feasible, Fircrest shall amend the reports accordingly.

3. Special Emphasis. Ruston shall identify any areas of special emphasis and Fircrest shall provide opportunities for input and reporting specific to those areas.

**F. Indemnification.** In executing this Agreement, Fircrest does not assume liability or responsibility for or in any way release Ruston from any liability or responsibility which arises in whole or in part from:

1. The existence or effect of any Ruston ordinance; or
2. Any prosecution conducted by Ruston's City Attorney. If any cause, claim, suit, action or administrative proceeding is commenced in which the enforceability and/or validity of any such ordinance or prosecution is at issue, Ruston shall defend the same at its sole expense and if judgment is entered or damages are awarded against Ruston, Fircrest or both, Ruston shall satisfy the same, including all chargeable costs and attorneys' fees.

Fircrest shall indemnify, defend, and hold harmless Ruston, its officers, agents and employees from and against any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatever, including costs and attorneys' fees in defense thereof, for injuries, sickness or death of persons (including employees of Ruston), or damage to property, or the violation of any person's civil rights, which is caused by or arises out of Fircrest's acts, errors or omissions with respect to the subject matter of this Agreement, or any act or mission of any agency retained by or contracted with by Fircrest to provide services covered by this Agreement; provided, however, that:

1. Fircrest's obligation to indemnify, defend and hold harmless shall not extend to injuries, sickness, death, damage or civil rights violations caused by or resulting from the actions or negligence of Ruston, its Police Department or its officers, agents or employees; and
2. Fircrest's obligation to indemnify, defend and hold harmless for injuries, sickness death, damage or civil rights violations caused by or resulting from the concurrent actions of negligence of Fircrest or its agents and Ruston or its agents shall apply to the extent that Fircrest or its agents or negligence cause or contributed hereto.

Fircrest does not by this Agreement assume any contractual obligations to anyone other than Ruston, and Ruston does not assume any contractual obligations to anyone other than Fircrest. Fircrest and Ruston expressly eliminate any third-party beneficiary to this Agreement.

**G. Termination.** Either party shall have the right to terminate this Agreement, provided that the terminating party notifies the other party twelve (12) months prior to such termination to allow the parties sufficient time to address alternate measures.

**H. Term.** The initial term of this Agreement is September 1, 2018 through December 31, 2019 with the parties consulting on a regular basis to establish whether amendments are needed to achieve the best results possible for both parties. Without such notice by October 1st of each year the Agreement will automatically renew as is for the following fiscal year.



- I. **Amendment.** Amendments to this Agreement must be in writing and may be made at any time during the term of the Agreement by agreement and signature of both parties.

**CITY OF FIRCREST**

\_\_\_\_\_  
Scott Pingel, City Manager

Dated: \_\_\_\_\_

**Attest:**

\_\_\_\_\_  
Jessica Nappi, City Clerk

**Approved as to form:**

\_\_\_\_\_  
Michael B. Smith, City Attorney

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

**CITY OF RUSTON**

\_\_\_\_\_  
Bruce Hopkins, Mayor

Dated: \_\_\_\_\_

**Attest:**

\_\_\_\_\_  
Judy Grams, City Clerk

**Approved as to form:**

\_\_\_\_\_  
Jennifer Robertson, City Attorney

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

## **COURT CONSOLIDATION/CLOSURE QUESTIONNAIRE**

### **District/Municipal Courts or Violation Bureaus**

Old Court ID: \_\_\_\_\_ Contact Name: \_\_\_\_\_ Phone: \_\_\_\_\_

New Court ID: \_\_\_\_\_ Contact Name: \_\_\_\_\_ Phone: \_\_\_\_\_

TARGET DATE: \_\_\_\_\_ Incident #: \_\_\_\_\_

**Each consolidation/closure may be different based on the desired structure and each situation. Perform tasks on Court Organization Master Checklist document as appropriate for each situation.**

#### **ISSUES:**

##### **Court Structure**

##### **Status**

1. Is old court becoming a division of the new court with staff in one or more locations?

Notes: \_\_\_\_\_

2. Are old court's cases being refiled in the new court? Are current infraction traffic cases remaining in the old court for 30-90 days unless hearings are scheduled?

Notes: \_\_\_\_\_

3. If the cases from the old court are to be filed in the new court, **the new court needs to establish the old court's jurisdiction in the Organization Association (ORA) screen.**

Result: This will create the jurisdiction for revenue to appear on the remittance for the contracting jurisdiction.

Notes: \_\_\_\_\_

4. Will the jurisdiction in the new court have parking tickets (PR type) issued by one or more LEAs?

Notes: \_\_\_\_\_

5. The new court's Administrator should talk with DOL to ensure DOL has the necessary court information for processing delinquent parking infractions for the new jurisdiction. (Depends on the structure of new court; a change may not be necessary.) Contact the Department of Licensing (DOL) Citation/FTA Unit at (360) 902-3966.

Notes: \_\_\_\_\_

## **COURT CONSOLIDATION/CLOSURE QUESTIONNAIRE**

### **District/Municipal Courts or Violation Bureaus**

Old Court ID: \_\_\_\_\_ Contact Name: \_\_\_\_\_ Phone: \_\_\_\_\_

New Court ID: \_\_\_\_\_ Contact Name: \_\_\_\_\_ Phone: \_\_\_\_\_

TARGET DATE: \_\_\_\_\_ Incident #: \_\_\_\_\_

#### **ISSUES:**

##### **Case Closure in Old Court**

##### **Status**

6. For cases with money in trust, if the money can't be paid out before the target date, release/redirect to the new court and write a check. New court will receipt the check when the case is refiled.

Notes:

\_\_\_\_\_

7. Order Trust Account Summary report for old court as a helpful tool to see which cases have money or bonds in trust.

Notes:

\_\_\_\_\_

8. Determine if current bonds in trust at the old court need to be reissued for the new court.

Notes:

\_\_\_\_\_

9. Notify bonding companies of new court for "forfeiture ordered" cases.

Notes:

\_\_\_\_\_

10. Screen print TPSE/TPSC for each case in old court if desired. May help new court set up timepay agreement if a new hearing will not be scheduled. **Also, be sure to submit a request with AOC to stop any time pay statements from automatically generating.**

Notes:

\_\_\_\_\_

11. Screen print CAR for each case before erasing balances and before adjudicating FTA in old court.

Notes:

\_\_\_\_\_

12. FTA's—Adjudicate from old court (be sure to use "Notify DOL=Y" and "Court Appearance Scheduled" reason so the FIT fee does not disappear from the CAR screen. Do FTA Outstanding Report for old court if desired.

Notes:

\_\_\_\_\_

## **COURT CONSOLIDATION/CLOSURE QUESTIONNAIRE**

### **District/Municipal Courts or Violation Bureaus**

Old Court ID: \_\_\_\_\_ Contact Name: \_\_\_\_\_ Phone: \_\_\_\_\_

New Court ID: \_\_\_\_\_ Contact Name: \_\_\_\_\_ Phone: \_\_\_\_\_

TARGET DATE: \_\_\_\_\_ Incident #: \_\_\_\_\_

#### **ISSUES:**

##### **Case Closure in Old Court (Continued)**

##### **Status**

13. Determine if outstanding warrants need to be recalled from police department for old court and reissued from new court. Do Outstanding Warrant Report for old court if desired.

**Be sure to confirm the minimum warrant amount on the CPFM.**

Notes:

14. Determine if protection/harassment/etc. orders need to be terminated in old court and reissued in new court.

Notes:

15. Cancel hearings on old cases.

Notes:

16. PLS screen—Use “D”ismissed (or “CV”-Change of Venue) and/or screen print what’s on PLS if desired. (Change of Venue is not counted on the caseload report.)

Notes:

17. CSD screen—Use case disposition code of “TR”ansfer so the DCH screen won’t appear as if there were two separate cases.

Notes:

18. Print full docket from old court if desired. Can file with ticket in the new court. (Not necessary if display security is set up for staff for the old court.)

**This is important as the cases from the old court may be destroyed in JIS based on the record detention schedule.**

Notes:

## **COURT CONSOLIDATION/CLOSURE QUESTIONNAIRE**

### **District/Municipal Courts or Violation Bureaus**

Old Court ID: \_\_\_\_\_ Contact Name: \_\_\_\_\_ Phone: \_\_\_\_\_

New Court ID: \_\_\_\_\_ Contact Name: \_\_\_\_\_ Phone: \_\_\_\_\_

TARGET DATE: \_\_\_\_\_ Incident #: \_\_\_\_\_

#### **ISSUES:**

##### **Refiling Cases in New Court**

##### **Status**

19. Suggested priority for refiling cases:

1. Cases with money in trust or bonds first.
2. Cases needed for receipting payments, as needed.
3. Cases with hearings that need to be set.
4. Cases with FTAs, warrants, orders, etc.

Notes:

\_\_\_\_\_

20. Review local law tables and add local laws from closing court to the local law table for the new court.

Notes:

\_\_\_\_\_

21. File cases in new court. Can use docket code @TRA@(old court ID). It translates to: "Case transferred from XXX; previous docket entries exist."

Notes:

\_\_\_\_\_

22. Do PLS for cases that have finding/judgments. Follow screen print or docket.

Notes:

\_\_\_\_\_

23. Reissue FTA's if necessary. Will need to check/change CAR screen the next day if previous FIT amount was less than \$52 due to prior partial payment application. Use "CT-Case Transferred" adjustment reason code. Refer to prior CAR screen print.

Notes:

\_\_\_\_\_

24. Reissue warrants if necessary. Check/change CAR to be sure the warrant fee balance is what was in the old court. Use "CT-Case Transferred" adjustment reason code. Refer to prior CAR screen print.

Notes:

\_\_\_\_\_

## **COURT CONSOLIDATION/CLOSURE QUESTIONNAIRE**

### **District/Municipal Courts or Violation Bureaus**

Old Court ID: \_\_\_\_\_ Contact Name: \_\_\_\_\_ Phone: \_\_\_\_\_

New Court ID: \_\_\_\_\_ Contact Name: \_\_\_\_\_ Phone: \_\_\_\_\_

TARGET DATE: \_\_\_\_\_ Incident #: \_\_\_\_\_

#### **ISSUES:**

##### **Refiling Cases in New Court (Continued)**

##### **Status**

25. Complete the CAR screen using the screen print from the old court.

**Even if JIS/JTR were partially paid in old court, must reduce other amounts to keep JIS/JTR at full amount in new court.**

Notes:

26. Set up timepay agreements. (Sometimes the new court will want to schedule a hearing for delinquent cases.) Use prior screen print and CFHS to determine payment history and amount.

- If defendant was current, use next payment date as payment start date.
- If payment was NOT current, backdate payment start date to reflect how delinquent the case is.
- If defendant was paid ahead, but in a future payment start date.

Notes:

26. Reschedule hearings and prepare new notices. (May want to stuff colored inserts into hearing notices to call special attention to new location, etc.)

Notes:

27. Reissue protection/harassment/etc orders in new court if necessary. (May need to schedule a hearing first.) Also, be sure that all judges from the old court have been set up in the new court so that the orders can be added.

Notes:

## **COURT CONSOLIDATION/CLOSURE QUESTIONNAIRE**

### **District/Municipal Courts or Violation Bureaus**

Old Court ID: \_\_\_\_\_ Contact Name: \_\_\_\_\_ Phone: \_\_\_\_\_

New Court ID: \_\_\_\_\_ Contact Name: \_\_\_\_\_ Phone: \_\_\_\_\_

TARGET DATE: \_\_\_\_\_ Incident #: \_\_\_\_\_

#### **ISSUES:**

##### **Accounting**

##### **Status**

28. Old court must be able to balance CKR and the Trust Account Summary at month end. Did it balance last month? Dispose of as much trust as possible at the old court.

Notes:

29. BKR needs to be done for old court, or at least be able to balance on paper.

Notes:

30. Old court needs to deal with stale checks disbursed—void if necessary (becomes part of trust). If very old, may want to send to treasurer/DOR for unclaimed property. Prepare Check Register Report for “O”utstanding items for old court if desired.

Notes:

31. Watch CKD for the remittance payable amount and BKD for a negative deposit amount—be sure neither is a negative number.

Notes:

32. On the last day of operation at old court, do full End of Month accounting processes, even if it is not the end of the calendar month. Another Trust Account Summary should show a **zero** amount.

Notes:

33. Timepay and Non-timepay reports should show no cases either when all cases have been closed. (This may take a while to accomplish.) These reports can be done periodically during transition to get lists of current cases with billed ARs. The Name Index report helps identify cases with unbilled ARs.

Notes:



## **COURT CONSOLIDATION/CLOSURE QUESTIONNAIRE**

### **District/Municipal Courts or Violation Bureaus**

Old Court ID: \_\_\_\_\_ Contact Name: \_\_\_\_\_ Phone: \_\_\_\_\_

New Court ID: \_\_\_\_\_ Contact Name: \_\_\_\_\_ Phone: \_\_\_\_\_

TARGET DATE: \_\_\_\_\_ Incident #: \_\_\_\_\_

#### **ISSUES:**

#### **Status**

##### **Accounting (Continued)**

34. What are the plans for the bank accounts for the old court? Balance in the account should be just enough to cover trust checks written to new court, the last remittance check to old court's jurisdiction, and other outstanding checks.

Notes:

35. Does either court want to request an audit be done by the State Auditor's Office?

Notes:

36. In new court, do the DCXT screen for the appropriate BARS codes in the new jurisdiction.

Notes:

#### **ISSUES:**

##### **Collections**

37. If old and new courts use different collection agents, are old court's cases being recalled from their collection agent? If old agency is keeping old cases, in the new court assign them manually to the old collection agency.

Notes:

38. If both courts use the same collection agency, manually assign to the same agency in the new court using the name code used in that court.

Notes:

39. If the current collection code is "1=First notice sent", the new court can either wait until the 30-day wait has passed and manually assign or use N/1 to generate 1<sup>st</sup> notice again. May need to do "edit bypass=Y" on COS for a case if profiles were different in the courts.

Notes:

## **COURT CONSOLIDATION/CLOSURE QUESTIONNAIRE**

### **District/Municipal Courts or Violation Bureaus**

Old Court ID: \_\_\_\_\_ Contact Name: \_\_\_\_\_ Phone: \_\_\_\_\_

New Court ID: \_\_\_\_\_ Contact Name: \_\_\_\_\_ Phone: \_\_\_\_\_

TARGET DATE: \_\_\_\_\_ Incident #: \_\_\_\_\_

#### **ISSUES:**

#### **Status**

##### **Collections (continued):**

40. For cases in old court, use "R"emove or "C"lear to delete the collection status code. Use COS for case-by-case method; use BOS for 10 cases at a time.

Notes:

41. On the CGR screen, prepare an "All currently assigned" Collection Agent Summary Report for each collection agency to get a list of cases currently assigned.

Notes:

42. Also order Eligibility List on the CAA screen to get a list of cases that received 1<sup>st</sup> notice from old court and are ready for assignment to agent.

Notes:

43. Compare Collection profiles for the two courts and discuss differences. Screens: CLNO, CTO, CTID, CTSC, CNP, CTX, CTXS.

Notes:

#### **ISSUES:**

##### **Security**

#### **Status**

44. After courts have consolidated, court administrator at new court needs to:
1. Send e-mail to AOC Security to delete old court's RACFID's
  2. End effective date OFO record for desired staff in old court.
  3. Set security to "N" on ATHX records for desired staff in old court.

Notes:

45. Administrators at old and new courts should decide if any staff needs security in the other court during the transition period. If so, they should send e-mail to AOC Security.

Notes:

**FIRCREST CITY COUNCIL RULES OF PROCEDURE**  
**RESOLUTION NO. \_\_\_\_**

**SECTION I – GENERAL PROVISIONS**

**RULE 1. COUNCIL MEETING - LOCATION**

All meetings of the City Council shall be held at the location (City Hall) specified in FMC 2.12.020 or other such location within the City as may be designated by resolution. Committee ~~Of of The the~~ Whole meetings, study sessions, or retreats may be held at places that are reasonably accessible to the general public, whether within or without the corporate limits of the City.

**RULE 2. COUNCIL MEETING - TIME**

The regular meetings of the City Council shall be held at the times (2nd and 4th Tuesdays at 7:00 P.M.) specified in FMC 2.12.010. If a meeting falls on a holiday, it shall be held the next business day unless otherwise provided by Council. As specified in Rule 20(P), regular meetings of the City Council are not permitted to continue beyond 10:30 P.M. without approval of the majority of the Councilmembers who are present and eligible to vote.

**RULE 3. COUNCIL MEETINGS - OPEN TO THE PUBLIC**

All meetings of the City Council and of committees thereof shall be open to the public, except as provided for in RCW 42.30.110 or RCW 42.30.140 as amended.

**RULE 4. ELECTION OF OFFICERS**

Procedures for election officers are as follows:

- A. Biennially, at the first meeting of the new Council, the members thereof shall choose a chair from among their number who shall have the title of Mayor. In addition to the powers conferred upon him/her as Mayor, he/she shall continue to have all the rights, privileges and immunities of a member of the Council. If a vacancy occurs in the Office of Mayor, the members of the Council at their next regular meeting shall select a Mayor from among their number for the unexpired term. (RCW 35A.13.030)
- B. In conjunction with the above election, a Mayor Pro Tempore shall also be elected for a two-year term. An alternate Mayor Pro Tempore may also be elected periodically. (RCW 35A.13.035)
- C. The City Clerk shall call the meeting to order and shall chair the meeting until a new Mayor is elected.  
The above elections shall be by affirmative motion.

**Commented [SP1]:** This addition would remove the need to suspend the rules whenever we are electing a new mayor.

**RULE 5. PRESIDING OFFICER**

- A. The Mayor shall preside at all meetings of the Council, and be recognized as the head of the City for all ceremonial purposes. The Mayor has no regular administrative or executive purposes.
- B. Mayor Pro Tempore.  
In case of the Mayor's absence or temporary disability, the Mayor Pro Tempore shall act as Mayor during the continuance of the absence. In case of the absence or temporary disability of the Mayor and the Mayor Pro Tempore, the City Clerk shall call the meeting to order and shall chair the meeting

until an alternate A-Mayor Pro Tempore is selected by members of the Council. The alternate Mayor Pro Tempore shall act as Mayor during the continuance of the absences or disabilities. An alternate Mayor Pro Tempore may be selected by the members of the Council.

C. The Mayor, Mayor Pro Tempore and Alternate Mayor Pro Tempore are referred to as "Presiding Officer" from time to time in these Rules of Procedure. (RCW 35A.13.030)

**D. Presiding Officer's Duties.**

It shall be the duty of the Presiding Officer to:

1. Call the meeting to order.
2. Keep the meeting to its order of business.
3. Control discussion in an orderly manner.
  - a. Every Councilmember who wishes an opportunity to speak must be recognized by the Chair.
  - b. Permit audience participation at the appropriate times.
  - c. Require all speakers to speak to the question and to observe the rules of order.
4. State each motion before it is discussed and before it is voted upon.
5. Put motions to a vote and announce the outcome.

**E. Presiding Officer, Question of Order.**

The Presiding Officer shall decide all questions of order, subject to the right of appeal to the Council by any member.

**F. Presiding Officer, Participation.**

The Presiding Officer may at his or her designation, call the Mayor Pro Tempore or, in his or her absence, any member to take the Chair so the Presiding Officer may make a motion or for other good cause yield the Chair.

**RULE 6. QUORUM**

At all meetings of the Council, four (4) Councilmembers, who are present and eligible to vote, shall constitute a quorum for the transaction of business. A less number may adjourn from time to time, provided that written notice of said adjournment be posted on the exterior City Hall front entry doors per RCW 42.30.090. Council meetings adjourned under the previous provision shall be considered to have been duly conducted for all purposes.

**RULE 7. ATTENDANCE, EXCUSED ABSENCES**

RCW 35A.12.060 provides that a Councilmember shall forfeit his/her office by failing to attend three consecutive regular meetings of the Council without being excused by the Council. Members of the Council may be so excused by complying with this section. The member shall contact the Presiding Officer prior to the meeting and state the reason for his/her inability to attend the meeting. If the member is unable to contact the Presiding Officer, the member shall contact the City Manager or designee, who shall convey the message to the presiding Officer. Following roll call, the Presiding Officer shall inform the Council of the member's absence, state the reason for such absence, and excuse the member's absence. The Clerk will make an appropriate notation in the minutes. If another Councilmember questions the member's absence, the Presiding Officer shall inquire if there is a motion to excuse the member. This motion shall be non-debatable. Upon passage of such motion by a majority of members present, the absent member shall be considered excused and the Clerk will make an appropriate notation in the minutes.

**Commented [JN2]:** Is the Fircrest Council interested in permitting councilmembers to participate meetings by telephone? Tacoma City Council rules permits a councilmember to participate by telephone and counts that towards a quorum in a study session or committee meeting.

Additionally, Tacoma permits councilmembers to attend regular, special, study sessions, and committee meetings by telephone once per calendar quarter (and only one at a time per meeting).

RCW 35A.13.035 provides that in the event of extended excused absence or disability of a Councilmember, the remaining members by majority vote may appoint a Councilmember Pro Tempore to serve during the absence or disability.

#### **RULE 8. SPECIAL COUNCIL MEETINGS**

- A. A special meeting may be called by the Mayor or any four (4) members of the Council.
- B. Notice of the special meeting shall be prepared in writing by the Clerk. The notice shall contain the following information about the meeting: time, place, and business to be transacted.
- C. The notice shall be delivered by mail or personally to each Councilmember, the City Manager, and the business office of each local newspaper and radio and television station which has on file a written request for notice of special meetings. The notice must be delivered personally or by mail at least twenty-four (24) hours prior to the meeting.
- D. The notices provided in this section may be dispensed with in the circumstances provided by RCW 42.30.080, that is:
  - 1. As to any member who at or prior to the time of the meeting convenes files with the Clerk a written waiver of notice,
  - 2. As to any member who was actually present at the meeting at the time it convenes, and
  - 3. In the event a special meeting is called to deal with an emergency involving injury or damage to persons or property or the likelihood of such injury or damage, when time requirements of such notice would make notice impractical and increase the likelihood of such injury or damage.
- E. Final disposition shall not be taken on any other matter.

#### **RULE 9. REGULAR COUNCIL MEETING AGENDA**

- A. The City Manager or designee shall arrange a list of such matters ascending to the order of business and prepare an agenda for the Council with the concurrence of the ~~Mayor~~Presiding Officer.
- B. A copy of the agenda and Council packets containing supporting materials shall be prepared for Councilmembers and the City Manager on or before 4:30 P.M. two working days before a regular Council ~~Meeting~~meeting.
- C. A copy of the agenda shall be prepared for the press on or before 4:30 P.M. two working days before a regular Council meeting.
- D. The Council shall have the option of deleting any item from the agenda or deferring an item on the agenda to a subsequent Council meeting. The Presiding Officer, one Councilmember, or the City Manager may introduce a new item to the agenda.

#### **RULE 10. STUDY SESSIONS**

- A. ~~Special~~s Study sessions may be designated as ~~Committee Of of The the~~ **Whole Study Sessions** where no official action is contemplated. Study sessions may be held for the purpose of considering current issues of the City, coordinating the work of the City Council, and discussing draft ordinances, resolutions, and policy issues in detail. The City Clerk, under the direction of the City Manager and concurrence of the ~~Mayor~~Presiding Officer, shall arrange a Council ~~Work-work Study-study Session session~~ agenda for the Study Session. The Council ~~Study-study Session-session~~ agenda shall list the topics of discussion. After the proposed Council ~~Study-study Session-session~~ agenda has been

**Commented [JN3]:** Note: There is no FMC or Council rule that defines the meeting frequency, date or time of study sessions. It does not appear that this is covered via resolution or ordinance either.

approved by the City Manager, a copy of it along with any supporting materials shall be prepared for Councilmembers and the City Manager on or before 4:30 P.M. at least 24 hours before the Council ~~Study-study Sessions~~session.

- B. During the Council ~~Study-study Session~~session, the Presiding Officer may:
1. introduce the subject and give background information;
  2. identify the eventual goal of the study session;
  3. act as facilitator to keep the meeting discussion focused to the subject; and
  4. alert the Council when it is appropriate to call for a motion or other official direction of the Council.
- C. Minutes shall be taken of Council ~~Study-study Sessions~~sessions recording the names of Councilmembers present, motions made, actions taken, and an account of business discussed.
- D. Standing ~~Study-study Sessions~~sessions may be set by the majority vote of the Council for specific dates and times.

#### **RULE 11. CITY MANAGER**

~~A.~~The City Manager shall have the powers and duties listed in RCW 35A.13.080, including having general supervision over the administrative affairs of the City and attending all meetings of the Council at which his/her attendance may be required by that body unless excused. The City Manager may make recommendations to the Council and shall have the right to take part in the discussions of the Council, but shall have no vote. When the City Manager has an excused absence, the designee shall attend the meeting.

#### **RULE 12. CLERK OF THE COUNCIL**

The City Clerk shall be ex-officio Clerk of the Council and shall see that minutes are kept and shall perform such other and further duties in the meeting as may be required by the Council, Presiding Officer, or City Manager. In the absence of the City Clerk, the City Manager shall appoint another qualified person to act as Clerk of the Council.

#### **RULE 13. CITY ATTORNEY**

The City Attorney shall attend all regular meetings of the Council unless excused by the City Manager who will notify the Presiding Officer of the excused absence. The City Attorney shall, upon request, give an opinion, either written or oral, on legal questions. The City Attorney shall act as the Council's parliamentarian. The Acting City Attorney shall attend meetings when the City Attorney has been excused if his/her attendance is required.

## **SECTION II = DUTIES AND PRIVILEGES OF MEMBERS**

### **RULE 14. FORMS OF ADDRESS**

The Mayor shall be addressed as "Mayor (surname)", "Your Honor", or "Mr./Madam Mayor". The Mayor Pro Tempore, when acting for the Mayor, shall be addressed as "Mayor Pro Tem (surname)". Members of the Council shall be addressed as "Councilmember (surname)".

### **RULE 15. SEATING ARRANGEMENT**

Councilmembers shall occupy the respective seats in the Council Chambers assigned to them by the Mayor.

### **RULE 16. APPEARANCE OF FAIRNESS DOCTRINE AND ITS APPLICATION**

#### **A. Appearance of Fairness Doctrine Defined.**

1. "When the law which calls for public hearings gives the public not only the right to attend but the right to be heard as well, the hearings must not only be fair but must appear to be so. It is a situation where appearances are quite as important as substance. The test of whether the appearance of fairness doctrine has been violated is as follows: Would a disinterested person, having been apprised of the totality of a boardmember's personal interest in a matter being acted upon, be reasonably justified in thinking that partiality may exist? If answered in the affirmative, such deliberations, and any course of conduct reached thereon, should be voided." *Zehring v. Bellevue*, 99 Wn.2d 488 (1983).

#### **C.B. Types Of Hearings To Which Doctrine Applies.**

1. The Appearance of Fairness Doctrine shall apply only to those actions of the Council which are quasi-judicial in nature. Quasi-Judicial actions are defined as actions of the City Council which determine the legal rights, duties, or privileges of specific parties in a hearing or other contested proceeding.
2. Quasi-judicial actions do not include the legislative actions adopting, amending, or revising comprehensive, community or neighborhood plans or other land use planning documents, or the adoption of area-wide zoning ordinances or the adoption of a zoning amendment that is of area-wide significance. (RCW 42.36.010).
3. Some examples of quasi-judicial actions which may come before the Council are:
  - rezones or reclassifications of specific parcels of property;
  - appeals from decisions of the Planning Commission~~on~~;
  - substantive appeals of threshold decisions under the State Environmental —Protection Act, subdivisions, street vacations, and special land use permits.

#### **C. C. Obligations of Councilmembers, Procedure.**

1. Councilmembers should recognize that the Appearance of Fairness Doctrine does not require establishment of a conflict of interest, but whether there is an appearance of conflict of interest to the average person. This may involve the Councilmember or a Councilmember's business associate or a member of the Councilmember's immediate family. It could involve ex parte (outside the hearing) communications, ownership of property in the vicinity, business dealings with the proponents or opponents before or after the hearing, business dealings of the



Councilmember's employer with the proponents or opponents, announced predisposition, and the like.

2. Prior to any quasi-judicial hearing, each Councilmember should give consideration to whether a potential violation of the Appearance of Fairness Doctrine exists. If a potential violation exists, no matter how remote, the Councilmember should disclose such facts to the City Manager who may seek the opinion of the City Attorney as to whether a potential violation exists. The City Manager shall communicate such opinion to the Councilmember and to the Presiding Officer.
  3. Anyone seeking to disqualify a Councilmember from participating in a decision on the basis of a violation of the Appearance of Fairness Doctrine must raise the challenge as soon as the basis for disqualification is made known or reasonably should have been made known prior to the issuance of the decision; upon failure to do so, the Doctrine may not be relied upon to invalidate the decision. The party seeking to disqualify the Councilmember shall state with specificity the basis for disqualification; for example: demonstrated bias or prejudice for or against a party to the proceedings, a monetary interest in the outcome of the proceedings, prejudgment of the issue prior to hearing the facts on the record, or ex parte contact. Should such challenge be made prior to the hearing, the City Manager shall direct the City Attorney to interview the Councilmember and render an opinion as to the likelihood that an Appearance of Fairness violation would be sustained in superior court.
  4. Should such challenge be made in the course of a quasi-judicial hearing, the Presiding Officer shall call a recess to permit the City Attorney to make such interview and render such opinion.
  5. The Presiding Officer shall have sole authority to request a Councilmember to excuse himself/herself on the basis of an Appearance of Fairness violation. Further, if two (2) or more Councilmembers believe that an Appearance of Fairness violation exists, such individuals may move to request a Councilmember to excuse himself/herself on the basis of an appearance of Fairness violation. In arriving at this decision, the Presiding Officer or other Councilmembers shall give due regard to the opinion of the City Attorney.
  6. Notwithstanding the request of the Presiding Officer or other Councilmembers, the Councilmember may participate in any such proceeding.
- D. Specific Statutory Provisions.
1. Candidates for the City Council may express their opinions about pending or proposed quasi-judicial actions while campaigning. (RCW 42.36.040)
  2. A candidate for the City Council who complies with all provisions of applicable public disclosure and ethics laws shall not be limited under the Appearance of Fairness Doctrine from accepting campaign contributions to finance the campaign, including outstanding debts. (RCW 42.36.050)
  3. During the pendency of any quasi-judicial proceeding, no Councilmember may engage in ex parte communications with proponents or opponents about a proposal involved in the pending proceeding, unless the Councilmember:
    - a. places on the record the substance of such oral and written communications; and
    - b. provides that a public announcement of the content of the communication and of the parties' right to rebut the substance of the communication shall be made at each hearing where action is taken or considered on the subject. This does not prohibit correspondence between a citizen and his or her elected official if the correspondence is made a part of the record, when

it pertains to the subject matter of a quasi-judicial proceeding. (RCW 42.36.060)

**E. ~~E.~~ Procedure ~~On~~ Application.**

Any person making application for any action leading to a quasi-judicial hearing shall be provided with a document containing the following information:

1. the names and addresses of all members of the City Council, and the Planning Commission; ~~and;~~
2. a statement that if the applicant intends to raise an Appearance of Fairness issue, the applicant should do so at least two weeks prior to any public hearing. The applicant shall acknowledge receipt of such document.

**RULE 17. DISSENTS AND PROTESTS**

Any Councilmember shall have the right to express dissent from or protest against any ordinance or resolution of the Council and have the reason therefore entered in the minutes.

**RULE 18. RULES OF ORDER**

~~Robert's Rules of Order Newly Revised shall be used as the guideline for conduct of Council Meetings, except in those cases where specific provisions contrary to Robert's Rules are provided in these rules. Rules of order not specified by statute, ordinance, or resolution shall be governed by Robert's Rules of Order, Newly Revised~~

**RULE 19. MOTIONS**

~~A.~~ All ordinances, resolutions, contracts and items of business that require Council approval prior to the expenditure of funds shall be in the form of an affirmative motion.

**RULE 20. ORDER OF BUSINESS**

The business of all regular meetings of the Council shall be transacted as follows; provided, however that the Presiding Officer may, during a Council meeting, rearrange items on the agenda to conduct the business before the Council more expeditiously.

A. Call to order by the Presiding Officer.

B. Pledge of Allegiance.

~~C.~~ Roll Call. (See Rule 7 for procedure to excuse an absence).

~~C.D.~~ Agenda Modifications.

~~D.E.~~ Presiding Officer's Report.

~~E.F.~~ Citizen-Public Comments (for items not on the agenda).

1. Subjects not on the current agenda. Any member of the public may request time to address the Council after first stating their name, address, and the subject of their comments. The Presiding Officer may then allow the comments subject to such time limitations as the Presiding Officer deems necessary, generally five (5) minutes. Following such comments the Presiding Officer may place the matter on the current agenda or a future agenda, or refer the matter to the City Manager for investigation and report.
2. Subjects on the current agenda. Any member of the public who wishes to address the Council on

**Commented [JN4]:** Is the Fircrest City Council interested in including a Section B under Rule 19 Motions, detailing the precedence of motions and brief description of the types of motions?

**Commented [JN5]:** I recommend renaming this to "Public Comments" as it's the standard among localities and other government entities that follow the Open Public Meetings Act

**Commented [JN6]:** I recommend adding a new section/rule dedicated to Public Testimony, that would outline what's permitted, when it's permitted, instructions for speakers, etc. Also to state that written public comments are allowed and how they'll be distributed to Council, and how oral testimony will be taken in non-quasijudicial or legislative matters. U.P. has a great section on this.

an item on the current agenda shall make such request to the Presiding Officer at the time when comments from the public are requested. As an option, the Presiding Officer may invoke the sign-in procedure defined in Rule 21(A). The Presiding Officer shall rule on the appropriateness of public comments as the agenda item is reached. The Presiding Officer may change the order of speakers so that testimony is heard in the most logical groupings, e.g. proponents, opponents, adjacent owners, vested interests, etc.

3. Any ruling by the Presiding Officer relative to the preceding two subsections may be overruled by a vote of a majority of members present.

F.G. Committee, Commission, and Liaison Reports.

G.H. Consent Calendar.

1. The City Manager, in consultation with the Presiding Officer, shall set the following items of business on the Consent Calendar. Consent Calendar items shall consist of items that have been previously discussed or policies set by the Council and/or are so routine or technical in nature that passage is likely, such as, but not limited to, the following:

a. ~~\_\_\_\_\_ (a) approval of vouchers/payroll warrants;~~

~~0. \_\_\_\_\_~~

~~e.b. \_\_\_\_\_ (b) approval of minutes;~~

~~0. \_\_\_\_\_~~

~~c. \_\_\_\_\_ (e) setting public hearings;~~

~~\_\_\_\_\_~~

~~d. \_\_\_\_\_ Routine resolutions, including contracts if already funded in the budget;~~

~~e. Communications requiring no action (e.g. liquor license renewals);~~

~~f. Appointments of individuals to committees, boards, and commissions;~~

~~g. Treasurer's reports and financial reports; and~~

~~e.h. Other items designated by the City Council.~~

2. The Clerk of the Council shall read the Consent Calendar.
3. The proper Council motion on the Consent Calendar is as follows: "I move for adoption of the Consent Calendar<sup>4</sup>." This motion is non-debatable and will have the effect of moving to adopt all items on the Consent Calendar. Since adoption of any item on the Consent Calendar implies unanimous consent, any member of the Council shall have the right to remove any item from the Consent Calendar.
4. Therefore, prior to the vote on the motion to adopt the Consent Calendar, the Presiding Officer shall inquire if any Councilmember wishes an item to be withdrawn from the Consent Calendar. If any matter is withdrawn, the Presiding Officer shall place the item at an appropriate place on the agenda for the current or a future meeting. Items not removed shall be adopted by the general consent without discussion.

H.I. Public Hearings (see Rule 21 for procedural details).

I.J. Unfinished Business.

1. All matters of business that have been presented to Council previously but which have not reached closure will be listed as sub-parts.

**Commented [SP7]:** It is not a common practice for cities to separate out comments for subjects not on the agenda versus comments for items that are on the agenda. Most cities provide for one comment period regarding any item or subject. In my experience, I have never seen a council provide the option for citizen comment prior to every council action.

2. All necessary ordinances or resolutions will be included with sub-parts and listed by title.

~~J.K.~~ New Business.

- ~~3.1.~~ (2) All matters of new business will be listed as sub-parts.

2. All necessary ordinances or resolutions will be included with sub-parts and listed by title.

~~K.L.~~ City Manager Comments.

~~L.M.~~ Department Head Comments.

~~M.N.~~ Councilmember Comments.

~~N.O.~~ Executive Session(s).

Councilmembers shall have the duty under the Open Public Meetings Act to hold in confidence all written materials and verbal information that they obtain in executive session to ensure that the City's position is not compromised, and to comply with RCW 42.23.070(4) relating to disclosure of confidential information.

~~O.P.~~ Adjournment.

No meeting shall be permitted to continue beyond 10:30 P.M. without approval of the majority of the Councilmembers who are present and eligible to vote. A new time limit must be established before taking a Council vote to extend the meeting. In the event that a meeting has not been closed or continued by Council vote prior to 10:30 P.M., the items not acted on shall be deferred to the next regular Council meeting, unless the Council, by majority vote of the members present, determines otherwise. Any Councilmember may call for a "Point of Order" at 10:00 P.M. to review agenda priorities.

## **RULE 21. ACTIONS FOR A PUBLIC HEARING**

The Public Hearing is a formal opportunity for citizens to give their views for consideration in the legislative or policy decision-making process. In addition, public hearings are required on quasi-judicial actions, which determine the legal rights, duties, or privileges of specific parties. The following rules shall be observed during public hearings

(See ~~appendix~~ Appendix for full procedures):

~~A.~~

~~B.A.~~ Presiding Officer:

1. May require speakers to sign in with Clerk ~~and may set time limits.~~ Comments will be limited to three (3) minutes from individuals or from persons speaking as a representative of an organization, club, or group. The Presiding Officer may allow additional time for receipt of written testimony, when needed. The City Clerk shall serve as the timekeeper.
2. Asks Councilmembers if any reason requiring member to excuse themselves pursuant to Appearance of Fairness Doctrine. If answered in the affirmative, Councilmember excuses himself/herself and exits the Council Chamber.
3. Introduces item, opens hearing, announces rules of order:
  - If zoning amendment or zoning reclassification, asks parties to limit presentation to information within scope of legal standards and may ask Planner to announce legal

standards.

~~4.~~ Asks City ~~Manager-staff~~ to describe matter under consideration.

~~4.5.~~ Calls for proponents in quasi-judicial proceedings and speakers in non-quasi-judicial proceedings.

- If zoning amendment or zoning reclassification may ask Planner to announce that site plans, artistic renditions, etc. in support of zoning amendment should be avoided and such plans are to go through the City's design review process through the Planning Commission.

~~5.6.~~ Calls for additional proponents 3 times.

~~6.7.~~ Call for opponents.

~~7.8.~~ Calls for additional opponents 3 times.

~~8.9.~~ Calls for proponents to speak in rebuttal.

~~9.10.~~ Calls for Administration to introduce any material to subjects raised by proponents or opponents or alter initial recommendations.

~~10.11.~~ Asks Councilmembers if questions and if so, appropriate person is recalled to podium.

~~11.12.~~ Closes public hearing.

~~12.13.~~ Asks if motion by any Councilmember

- Must be in the form of affirmative motion.
- Then ask for discussion by ~~council~~ Council.
- Asks administration for final comments/recommendations.
- May ask ~~clerk~~ Clerk to conduct a roll call vote.

## RULE 22. VOTING

The votes during all meetings of the Council shall be transacted as follows:

- Unless otherwise provided for by statute, ordinance, or resolution, all votes shall be taken by voice, except that at the request of any Councilmember, a roll call shall be taken by the Clerk. The Clerk shall call the names in an alphabetical sequence with the Mayor, as Presiding Officer, voting last. Names for subsequent votes will go down the alphabetical list and the Clerk will call on the next name in alphabetical sequence with the Mayor, as Presiding Officer, voting last. This rotating alphabetical sequence will be continued throughout the meeting during voting sequences.
- In case of a tie in votes on any proposal, the proposal shall be considered lost.
- Every member who was in the Council Chambers when the question was put, shall give their vote unless the Council, for special reasons, shall excuse the member by motion or unless the Councilmember is excused in accordance with Rule 16.
- The general rule is that when a Councilmember refuses to vote, such member is regarded as having voted with the majority.
  - Neutrality in voting is frowned upon except when a Councilmember has a direct or pecuniary interest that would result in a conflict of interest or when participation is prevented due to the Appearance of Fairness Doctrine. In that instance, the refusal to vote shall not be considered as an affirmative vote.
  - In all other instances, except as hereinafter noted, the rule is that when a quorum is present, members present and not voting are deemed to have voted with the majority.

3. If the vote is tied with a member abstaining, such member will be considered as voting in the affirmative so that the proposition being considered passes.
  4. However, when an affirmative vote of a majority is required by statute or ordinance, a failure to indicate a yea or nay vote will be considered as a negative indication, as abstention cannot be considered in fulfilling such affirmative vote requirement. Most matters before Council merely require a concurrence of a majority and this would be considered to be an exception to the general rule.
  5. When abstaining from voting, Councilmembers must explain the basis for their abstention. If the reason involves a legitimate rationale for not voting, the abstention will not be considered as a vote for the majority. If the rationale does not involve disqualifying circumstances, the abstention will be counted as a vote with those voting in the majority, unless the noted exception outlined previously applies.
- E. The affirmative vote of at least a majority of the whole membership of the Council (4 Councilmembers) is required for the passage of:
- ordinances;
  - grant or revocation of franchise or license;
  - any resolution for the payment of money;
  - any approval of warrants; and
  - any resolution pertaining to personnel actions.
- F. The affirmative vote of at least a majority of the whole Council plus one (5 Councilmembers) is required for the passage of:
- public emergency ordinances (which take effect immediately);
  - expenditures for any calamity, violence of nature, riot, insurrection, or war; and
  - budget amendments.
- G. The affirmative vote of at least a majority of the membership of Council who are present and eligible to vote is required for the passage of:
- motions or resolutions not subject to the provisions of RCW, FMC, or these rules as amended.

## **RULE 23. COMMITTEES**

All Committee meetings shall be open to the public. The Committee structure of the Council and the procedures governing all committees shall be as follows:

- A. Committee ~~Of of The the~~ Whole.
1. The only standing committee of the Council shall be the Committee ~~Of of The the~~ Whole (COW), composed of the entire Council sitting as a legislative study committee. The Committee of the Whole shall not take any official action while in committee.
  2. The Presiding Officer chairs the COW.
- B. Special Ad Hoc Council Study Committees.
1. Special Ad Hoc Council Study Committees may be created by the Council for a particular purpose,

**Commented [JN8]:** Is the Fircrest Council interested in adding the Investment Committee as a sub-item under Rule 23? U.P. includes a subsection about their Finance Committee, how often they meet and the membership composition. If so, we could also include language to require the Investment Committee to meet at least annually.

or when the issue is so complex and time consuming that it cannot be reasonably handled at a Council or COW meeting.

2. Ad Hoc Study Committees shall consist of three Councilmembers appointed by the Mayor.
  3. The Mayor shall appoint the Chair of Ad Hoc Study Committees.
  4. Special Ad Hoc Council committees shall sunset at the end of their mission, but no later than the end of each calendar year unless specifically continued by the Council thereafter for a specified time period.
- C. Special Ad Hoc Citizen Advisory Committees.
1. Special Ad Hoc Citizen Advisory Committees may be created by the Council for a particular purpose. Committee members shall be appointed by the Mayor, with the advice and consent of the Council.
  2. The Mayor shall appoint the Chair of the Committee.
  3. Ad Hoc Citizen Advisory Committees shall sunset at the end of each calendar year unless specifically continued by the Council thereafter for a specified time period.
  4. At least one Councilmember will be appointed as a member and liaison of a Citizen Advisory Committee.
- D. Committees may make recommendations on proposed programs, services, ordinances, and resolutions within their area of responsibility before action is taken by the Council. The Committee Chair may present the recommendations of the committee during the discussion of the item of business.
- E. Employees shall staff the various committees as directed by the City Manager, but no staff person shall serve as a member of a Council or citizen study committee.
- F. Minutes need not be taken of committee meetings, except for the Committee ~~Of of The the~~ Whole.

#### **RULE 24. COUNCIL LIAISONS**

- A. In order to build additional Council expertise in various areas of City operations, the Mayor shall designate functional areas and appoint a Councilmember, at the beginning of the fiscal year, to serve as a liaison to the City Manager. Functional areas for liaison assignments may include the following, though specific areas may be adjusted depending on the organization of the City:
- Parks and Recreation
  - Environment, Planning, Building
  - Administration
  - Finance, IT
  - Water, Sewer, Storm
  - Public Safety, Court
  - Streets, Facilities & Equipment
- B. The City Manager and respective department heads shall strive to provide liaisons with additional information beyond that normally provided to the Council as a whole, and to keep the liaisons abreast of developments, trends, conditions and issues in the various functional areas of City government.



## **RULE 25. ENACTED ORDINANCES, RESOLUTIONS, MOTIONS, AND PROCLAMATIONS**

- A. An enacted **ordinance** is a legislative act prescribing general, uniform, and permanent rules of conduct relating to the corporate affairs of the municipality. Council action shall be taken by ordinance when required by law, or to prescribe permanent rules of conduct which continue in force until repealed, or where such conduct is enforced by penalty.
- B. An enacted **resolution** is an internal legislative act which is a formal statement of policy concerning matters of special or temporary character. Council action shall be taken by resolution when required by law and in those instances where an expression of policy more formal than a motion is desired.
- C. An enacted **motion** is a form of action taken by Council to direct that a specific action be taken on behalf of the municipality. A motion, once approved and entered into the record, is the equivalent of a resolution in those instances where a resolution is not required by law.
- D. An enacted **proclamation** is an official announcement made by either the City Council or the Mayor on non-controversial events which have a major city-wide impact. Controversy is defined as a dispute, especially a lengthy and public one, between sides holding opposing views.

## **RULE 26. PROCLAMATIONS**

- A. City Council Proclamations.  
City Council proclamations shall be publicly read at a City Council meeting and presented to a representative of the event during the Council meeting.
- B. Mayor's Proclamations.  
Are requested by a special interest group from within the City. Mayor's proclamations are signed by the Mayor and forwarded to a representative of the event.
- C. The Mayor and City Manager shall determine if the proclamation request is for a City Council proclamation or a Mayor's proclamation.

## **RULE 27. RESOLUTIONS**

- A. Except for franchise resolutions as provided under Rule 28(B), a resolution may be put to its final passage on the same day on which it was introduced.
- B. The Presiding Officer will read a summary statement of the Resolution prior to its passage; provided, should a majority of the Councilmembers present request that the entire resolution or certain of its sections be read, such requests shall be granted.
- C. Printed copies shall be made available upon request to any person attending a Council meeting.
- D. Resolutions take effect immediately after they are approved by the vote of the Council, unless otherwise provided.

## **RULE 28. ORDINANCES**

The procedure for ordinances is as follows:

- A. With the exception of franchise ordinances as provided below, an ordinance may be put to its final passage on the same day on which it was introduced.
  - 1. The Presiding Officer will read a summary statement of the Ordinance prior to its passage; provided, should a majority of the Councilmembers present request that the entire ordinance or

certain of its sections be read, such requests shall be granted.

2. Printed copies shall be made available upon request to any person attending a Council meeting.

~~3.~~ No ordinance shall contain more than one subject.

~~3.4.~~ Ordinances, or ordinance summaries, shall be published in the City's official newspaper- as provided by law.

~~4.5.~~ An ordinance does not take effect until five days after date of publication, except for emergency situations.

B. Franchises.

All resolutions and ordinances granting a franchise require two readings prior to adoption. The second reading must be at least five (5) days after the first reading.

1. All franchise ordinances and resolutions may be passed only at a regular meeting of the Council; and at least four (4) Councilmembers must vote in favor of the franchise.

C. Emergency Ordinances.

By vote of one more than the majority (5 Councilmembers), the City Council may, without notice or hearing, adopt an emergency ordinance authorizing expenditures for a public emergency as defined and prescribed in RCW 35.33.081.

D. A Councilmember may, in open session, request of the Presiding Officer that the Council study the wisdom of enacting a particular ordinance. By affirmative motion, the Council may assign the proposed ordinance to a specific committee or the Committee ~~Of of The the~~ Whole for study and consideration. The committee shall report its findings to the Council.

E. If a motion to pass an ordinance fails, the ordinance shall be considered lost.

F. Any ordinance amending or repealing any portion of the FMC shall also amend or repeal the respective portions of any underlying ordinance(s).

## **RULE 29. PERMISSION TO ADDRESS THE COUNCIL**

Persons other than Councilmembers and management shall be permitted to address the Council upon introduction by the Presiding Officer or the chair of the appropriate Council committee.

## **RULE 30. RECONSIDERATION**

A. Any action of the Council, including final action on applications for changes in land use status; but excluding a reconsideration of any action previously reconsidered, motions to adjourn, motions to suspend the rules, an affirmative vote to lay on the table or to take from the table, or a vote electing to office one who is present and does not decline; shall be subject to a motion to reconsider.

1. Such motions can be made only by a member of the prevailing side on the original action.

B. A motion to reconsider must be made no later than the next succeeding regular Council meeting.

C. A motion to reconsider is debatable only if the action being reconsidered is debatable.

D. Upon passage of a motion to reconsider, the subject matter is returned to the table anew for any action the Council deems advisable.

### **RULE 31. COMPLAINTS AND SUGGESTIONS TO COUNCIL**

When citizen complaints or suggestions are brought before the City Council not on an agenda, the Presiding Officer shall first determine whether the issue is legislative or administrative in nature and then:

- A. If legislative and a complaint about the letter or intent of legislative acts or suggestions for changes to such acts, and if the Council finds such complaint suggests a change to an ordinance or resolution of the City, the Council may refer the matter to a committee, Administration or the Committee of the Whole for study and recommendation.
- B. If administrative and a complaint regarding administrative staff performance, administrative execution or interpretation of legislative policy, or administrative policy within the authority of the City Manager, the Presiding Officer should then refer the complaint directly to the City Manager for his/her review if said complaint has not been so reviewed. The City Council may direct that the City Manager brief or report to the City Council when his/her response is made.

### **RULE 32. FILLING COUNCIL VACANCIES**

- A. If a vacancy occurs in the office of Councilmember, the Council will follow the procedures outlined in RCW 42.12.070.
- B. To hold office as a Councilmember, the person must be a registered voter and a Fircrest resident for a period of at least one year prior.
- C. Where one position is vacant, the remaining members of the Council shall appoint a qualified person to fill the vacant position.
- D. Where two or more positions are vacant and two or more Councilmembers remain in office, the remaining Councilmembers shall appoint a qualified person to fill one of the vacant positions.
  - 1. The remaining Councilmembers and the newly appointed Councilmember shall appoint another qualified person to fill another vacant position, and so on until each of the vacant positions is filled.
  - 2. If less than two Councilmembers remain in office, the County Council shall appoint a qualified person or persons to the Council until the Council has two members.
- E. If the City Council fails to appoint a qualified person to fill a vacancy within ninety days of the occurrence of the vacancy, the County Council shall appoint a qualified person to fill the vacancy.
  - 1. If the County Council fails to appoint a qualified person to fill the vacancy within 180 days, the governor may be petitioned to appoint a qualified person to fill the vacancy.
- F. As provided in RCW 29A.24.191 and 29A.52.240, each person appointed serves until a qualified person is elected at the next Council election that occurs 28 days or more after the occurrence of the vacancy.
  - 1. A primary is held if time exists and more than two candidates file for the vacant office; otherwise, a primary shall not be held and the person receiving the greatest number of votes is elected.
  - 2. The person elected takes office immediately when qualified and serves the remainder of the unexpired term.
  - 3. If an election for the position that became vacant would otherwise have been held at this general election date, only one election to fill the position shall be held and the person elected to fill the succeeding term for that position shall take office immediately when qualified and shall serve both the remainder of the unexpired term and the succeeding term.

### **RULE 33. PHOTOGRAPHS, MOTION PICTURES, VIDEO TAPE -- PERMISSION REQUIRED FOR ARTIFICIAL ILLUMINATION**

No photographs, motion pictures, or video tapes that require the use of flash bulbs, electronic flashes, flood lights, or similar artificial illumination shall be made at City Council meetings without the consent of the Presiding Officer or a majority of the Council.

### **RULE 34. COUNCIL TRAVEL**

- A. The Council may appropriate funds for Council travel in the legislative department of the annual City budget.
  - 1. Any Councilmember who desires to expend Council travel funds, where the cost of such travel, lodging and meals would exceed \$150, shall complete the regular City "Training Attendance Request" form.
  - 2. Upon receipt by the City Manager, the completed form will be put in the Council packets for the next regular meeting. The City Manager shall bring the item to the floor under City Manager's Reports/Comments, and the Council shall act to approve, disapprove, or modify the request.

### **RULE 35. APPROVAL OF CITY MANAGER TRAVEL EXPENSE CLAIMS AND PERSONNEL ACTION FORMS**

The Presiding Officer or designee will approve City Manager travel expense claims and Personnel Action forms.

### **RULE 36. VACANCIES IN COMMISSIONS AND BOARDS**

Notices will be posted at all public buildings when vacancies exist in Commission-commission and Board board positions. Notices will request letters of interest and list any required qualifications.

### **RULE 37. PUBLICATION AND POSTING OF NOTICES FOR HEARINGS AND FORTHCOMING COUNCIL MEETINGS**

- A. Public Hearings.

Except where a specific means of notifying the public of a public hearing is otherwise provided by law or ordinance, notice of upcoming public hearings before the City Council shall be given by one publication of notice containing the time, place, and date when the hearing is to be held and subject thereof, in the City's official newspaper at least ten (10) days before the date set for the hearing.
- B. Council Meetings.

The public shall be notified of the preliminary agenda for a forthcoming Council meeting by posting a copy of the agenda at the following four (4) public places at least twenty-four (24) hours in advance of the meeting:

  - 1. Fircrest City Hall
  - 2. Fircrest Recreation Center Building
  - 3. Fircrest Public Safety Building
  - 4. Fircrest Public Works Facility

### **RULE 38. COUNCILMEMBERS' MAIL AND MESSAGES**

- A. The majority of Council's mail is sent to City Hall. Unless marked "personal" or "confidential", staff opens and date stamps all mail unless notified by a Councilmember to leave it sealed. Each Councilmember is assigned a mail and message box, which is located in City Hall. All mail and messages will be included in Council packets.
- B. A message box will be maintained for "General Council Information" and will be located near the individual Councilmembers' mail and message boxes.
- C. Phone messages will be taken and placed in Council mail and message boxes. Councilmembers' home and work telephone numbers will be given to the general public upon request, unless a Councilmember has an unlisted phone number or requests that a number not be given.

**Commented [JN9]:** Is the Fircrest Council interested in adding a section under Rule 38 regarding Electronic Media and Communication? Lakewood has a good section on this that covers the parameters of their assigned City email and public disclosure, etc.

### **RULE 39. REQUESTS FOR LEGAL OPINIONS**

- A. It is the policy of the City that all requests for legal assistance from the City Attorney's Office which require a written response (opinion, resolution, or ordinance) be processed through the City Manager's office or with the approval of the Mayor in recognition that the City Attorney also serves the City Council as a whole.
- B. This policy shall not apply to requests made by motion of the Council or to routine matters that can be addressed over the phone or in person without a formal written response.

### **RULE 40. CODE OF ETHICS**

The conduct of Councilmembers will be in compliance with F.M.C. 2.46 Conduct ~~Of~~of Public Officials. (See attachment)

**Commented [JN10]:** Is the Fircrest Council interested in adding a new Rule entitled "Council Relates with Staff"? It would cover respective roles and responsibilities and communications. Lakewood has a great section on this.

### **RULE 41. MISCELLANEOUS**

When Councilmembers register to attend an official conference requiring voting delegates, such as the annual National League of Cities or Association of Washington Cities, the Council shall designate the voting delegate(s) and alternate voting delegate(s) during a public meeting, by a majority vote; when possible, said selection of voting delegate(s) shall be done on a rotating basis for the purpose of allowing all Councilmembers the opportunity to be an official voting delegate.

### **RULE 42. SUSPENSION AND AMENDMENT OF RULES**

Any provision of these rules not governed by state law or ordinance, may be temporarily suspended by a majority vote of the Council.

These rules may be amended, or new rules adopted, by a majority vote of the Council.

### **RULE 43. EFFECT/WAIVER OF RULES**

It is the intent of the City Council that Council rules and procedures be periodically reviewed as needed, but no less than every two (2) years.

These rules and procedures are adopted for the sole benefit of the members of the City Council to assist in the orderly conduct of Council business. These rules and procedures do not grant rights or privileges to members of the public or third parties. Failure of the City Council to adhere to these rules and procedures

shall not result in any liability to the City, its officers, agents, and employees, nor shall failure to adhere to these rules and procedures result in invalidation of any Council Act. These rules and procedures shall govern the Fircrest City Council in all cases to which they are applicable and in which they are not consistent with these rules and procedures and any applicable Federal, state, and local laws. The City Council, may, by two-thirds vote of those members present and voting, determine to temporarily waive any of the provisions herein. A two-thirds vote is five of seven votes, four of six votes, and three of four votes.