

# How to Conduct Effective Meetings

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# First Order of Business: Adopt Rules of Procedures

## **S.C. Code Ann. § 5-7-250(b) provides the council shall determine its own rules and order of business**

South Carolina law requires municipal councils and their appointed bodies to adopt meeting rules of order and procedure. Adopting local rules is extremely important because they establish the procedure for preparing agendas and conducting meetings. Because state law allows councils to exercise complete discretion over their rules of order, provided they do not conflict with state law, local rules may be as complex or as simple as council deems necessary.

While adopting Robert's Rules of Order is a quick way to satisfy the state requirement, using only Robert's Rules for municipal council meetings can be difficult and confusing because the rules were not designed for that use.

Sample rules of order are provided in Appendix B of this handbook. These rules are formatted to be easily amended and adopted to meet specific local needs.

The sample rules of order allow the municipality to reference a secondary (or outside) set of rules of procedure, such as Robert's Rules. In the rare instances when the local rules do not provide sufficient guidance on meeting conduct, the secondary rules would be used. Once customized to fit the local needs, the Association's sample rules, used in conjunction with Robert's or some other commonly recognized rules of order, should be sufficient to guide the orderly conduct of most municipal meetings.

## **Statutory Authority for Rules of Procedure**

### **S.C. Code Ann. § 5-7-250 requires**

- (a) public notice of meetings; regular meetings to be held at least once a month; special meetings on call of mayor or majority of council;
- (b) council determines its own rules and order of business and provide for keeping minutes which are public records;
- (c) procedures not conflict with general state law concerning freedom of information; and
- (d) emergency ordinances (not for taxes, franchises or service charges) be adopted by vote of two-thirds of members of council present, and expire on 61st day after adoption.

### **S.C. Code Ann. § 5-7-260 requires**

certain acts to be by ordinance. *[See Appendix B, Section 13]*

### **S.C. Code Ann. § 5-7-270 requires**

establishing rules of procedure for adopting ordinances. Ordinances must be in writing, in the form for final adoption and receive two readings at least six days apart.

### **S.C. Code Ann. § 5-7-280 authorizes**

adopting by reference nationally recognized codes or standards specified in S.C. Code Ann. § 6-9-60. A public hearing must be held prior to adoption.

### **S.C. Code Ann. § 5-7-290 requires**

codifying and indexing all ordinances, maintaining ordinances in current form reflecting all amendments and repeals, and making them available for public inspection.

# How to: Schedule a Meeting

## Regular meetings

The council shall meet regularly, but no less than once every month. Local rules shall stipulate the time and place. *S.C. Code Ann. § 5-7-250.*

## Special meetings

The mayor or a majority of members may call for a special meeting. *S.C. Code Ann. § 5-7-250.*

## Freedom of Information

Meeting procedures shall not conflict with Freedom of Information laws. Council is responsible for complying with FOI laws.

## Public Notice and Agendas

In response to the state Supreme Court's ruling in *Lambries v. Saluda County Council*, the Freedom of Information Act, *S.C. Code Ann. § 30-4-80*, was amended in 2015 to require a written public notice and agenda for all meetings of a municipal council and its appointed public bodies. *S.C. Code Ann. §§ 5-7-250, 30-4-80(a)*. This notice requirement applies to meetings of a quorum of council or its appointed public bodies regardless of the name used to describe the meeting, including any special, called or rescheduled meeting. A copy of the public notice and an agenda must be sent to individuals, news media and organizations requesting notification of meetings.

For all regularly scheduled meetings, public bodies must **give written public notice** at the beginning of each calendar year. The annual meeting notice must include the dates, times and places of all regularly scheduled meetings pursuant to *S.C. Code Ann. § 30-4-80(a)* and (d). An agenda for regularly scheduled meetings must be posted on a bulletin board in a publicly accessible place at the office or meeting place of the public body and on the municipal website, if the municipality has a website, at least 24 hours prior to such meeting.

For any special, called or rescheduled meeting, a public notice, including an agenda containing the date, time and place of the meeting, must be posted as early as is practicable, but no later than 24 hours before the meeting, on a bulletin board in a publicly accessible place at the office or meeting place of the public body and on the municipality's website, if the municipality has a website.

If an unforeseen situation arises that requires immediate action, the mayor or a majority of councilmembers may call an emergency meeting. The municipality should hold emergency meetings only if there is a crisis and council must act with a sense of urgency (e.g., a natural or man-made disaster). The council and its appointed public bodies must exercise great caution when calling emergency meetings because they are not subject to the Freedom of Information Act's public notice and agenda requirements for public bodies. *S.C. Code Ann. §§ 5-7-250(d) and 30-4-80*. *S.C. Code Ann. § 30-4-80* does not relieve a public body from notice requirements regarding any statutorily required public hearing.

# How to: Set an Agenda

The Home Rule Act does not specify who has the responsibility for making an agenda or what it must contain. S.C. Code Ann. § 5-7-220 states, “The municipal clerk shall give notice of council meetings to its members and the public, keep the minutes of its proceedings and perform such other duties as are assigned by council.” In some instances, responsibility for producing the agenda is delegated to the clerk, administrator, manager or mayor.

A written agenda is an invaluable tool for the orderly conduct of public meetings. An agenda

- offers a prearranged outline for the meeting,
- is a basic method for assigning priorities to the various items of business to be considered,
- can be used as a method of administratively reporting to council, and
- is a tool for sounding out reactions to various discussion topics, particularly controversial items.

An agenda, if properly used, has the same format from meeting to meeting. Most of the items fall into two basic groups: routine or procedural items and items that vary from meeting to meeting. Procedural items may include a pledge of allegiance, roll call and consideration of the last meeting’s minutes.

The bulk of an agenda is normally composed of considering other business (such as resolutions, ordinances, claims, petitions, reports and hearings), communications from committees, commissions, boards or the public, and other actions.

Once agreed upon, council should formally prescribe the agenda’s form by ordinance or resolution or include it in the council’s rules.

In smaller municipalities, the municipal clerk customarily holds the major responsibility for compiling the agenda. The municipality’s chief executive, whether elected or appointed, should review the agenda before it is finalized. Specifics on the agenda process should be included in council’s rules of procedure.

There should be a definite, known deadline for adding items to the agenda. This practice will help minimize requests to amend an agenda and ensure no item will be brought up for discussion that councilmembers have not been briefed on through advance distribution.

The agenda with backup and supporting materials should be distributed to council and appropriate staff prior to the council meeting. The agenda and supporting materials are subject to public release, except for any documents or portions thereof specifically exempted by the FOIA.

## Adding an Item to the Agenda

Once an agenda for a regular, called, special or rescheduled meeting is posted, no items may be added to the agenda without an additional 24-hour notice to the public. The notice must be made in the same manner as the original posting.

After a meeting has been called to order, items proposed to be added to the agenda are classified into three categories, each of which requires distinct actions to authorize the item to be added to the agenda. The required categories and actions are as follow:

### **Information only item**

After the meeting begins, an item, which does not require a vote or action of council may be added to an agenda. Council should follow the municipality’s adopted rules of procedure for adding an item to the agenda.

### **Action items with public comment**

After the meeting begins, an action item, which is not a final action and for which public comment has been or will be received at a publicly noticed meeting, may be added to the agenda by a two-thirds vote of the members present and voting.

### **Action item without public comment**

After the meeting begins, an action item, which is a final action or for which public comment has not been or will not be received, may be added to the agenda by a two-thirds vote of the members present and voting and a finding of an emergency or exigent circumstances.

Council, in determining what constitutes “exigent circumstances” should consider the following definition. Exigent means, “requiring immediate attention or needing to be dealt with immediately.” The exigent circumstance exception should not be used if it is possible to schedule a properly noticed, called meeting to deal with the issue to be discussed.

The Association recommends council use the following sample language to amend an agenda by emergency or exigent circumstances.

**In accordance with SC Code of Laws Section 30-4-80 (A), the [NAME OF PUBLIC BODY] finds an emergency or exigent circumstance does or will exist if the [ACTION OR NAME OF ITEM] is not added to the current meeting agenda for the body’s consideration and desired action before the conclusion of this meeting.**

Council may edit this sample language to fit the municipality’s specific situation when amending an agenda after the meeting has been called to order. The Municipal Association and the SC Press Association have created a flowchart (*See Appendix A on page 14.*) to guide officials through the process of amending an agenda.

## **Executive session**

The mayor and council cannot call an executive session simply by issuing a notice. An executive session must be set by motion adopted at a properly noticed and convened public meeting for one of the reasons permitted by the Freedom of Information Act. Council may not take any vote or action in executive session except to adjourn or to return to public session. *S.C. Code Ann. § 30-4-70(b)*. (See chapter on executive sessions on page 8 of this handbook.)

## **Quorum**

A quorum is necessary to conduct business at any meeting. A simple majority of the constituent membership (members of a body selected to represent the interests of the public) of council (including the mayor) constitutes a quorum. *S.C. Code Ann. § 30-4-20(c)*.

## **Minutes**

Minutes must be taken of all public meetings. Minutes are not required for the executive session portion of a meeting. If minutes are taken in executive session, they are not considered public records. *S.C. Code Ann. §§ 30-4-50(7), 30-4-90*. However, they may be discoverable in a court action. *S.C. Code Ann. §§ 30-4-50(7), 30-4-90(b)*.

# How to: Preside Over a Meeting

## An effective presiding officer follows and enforces the rules

In addition to being on time for a meeting, a good presiding officer should

1. be familiar with the rules of procedure
2. run the meeting firmly and courteously
3. maintain order
4. follow the agenda
5. require a member to be recognized before speaking
6. allow only one person to speak at a time
7. allow persons not on council to speak only at designated times
8. rule “out of order” remarks which involve personalities or attack motives of another member
9. rule “out of order” remarks not related to the matter before the council
10. apply time limits uniformly
11. reject frivolous motions and motions not permitted by the rules
12. require motions to be stated affirmatively
13. allow discussion only after a motion is seconded and restated by the presiding officer
14. allow the maker of a motion to speak first
15. allow a member to speak twice on a matter only after all other members have an opportunity to speak
16. allow interruption of a speaker only by consent or for permitted reasons (e.g., point of order; question of privilege)
17. reject discussion of motions which are not debatable (e.g., previous question, table, adjourn)
18. allow only one main motion on the floor
19. require members to vote clearly without explanation
20. consult the parliamentarian for advice, not a ruling (only the chair can rule)
21. deal firmly with disruptions
22. comply with the Freedom of Information Act

State law gives a mayor full voting privileges which cannot be modified by local rules. Robert’s Rules, which allow the presiding officer to vote only when his/her vote would affect the result, does not apply.

# How to: Go Into Executive Session

## All council meetings are public, except executive sessions

In conducting public business, occasions arise when it is necessary and in the best interest of the municipality for council to meet and discuss certain matters in executive session. The Freedom of Information Act (*S.C. Code Ann. § 30-4-70*) authorizes executive sessions, which are closed to the public, for specific purposes.

Prior to going into executive session, council must vote in public on the question of closing the meeting. Council must make a motion and vote in a properly convened regular, called or special public meeting to hold an executive session. *S.C. Code Ann. § 30-4-70(b)*. If the vote is favorable, the presiding officer must announce the executive session's specific purpose following, as closely as possible, the language of *S.C. Code Ann. § 30-4-70(a)*.

*S.C. Code Ann. § 30-4-70(b)* defines specific purpose as, "a description of the matter to be discussed as identified in items (1) through (5) of subsection (a)." Items 1-5 include:

### **Section 30-4-70 (a) (1)**

Discussion of employment, appointment, compensation, promotion, demotion, discipline, or release of an employee, a student, or a person regulated by a public body or the appointment of a person to a public body. (*The identity of the individual or entity being discussed is not required to be disclosed.*)

### **Section 30-4-70 (a) (2)**

Discussion of negotiations incident to proposed contractual arrangements and proposed sale or purchase of property, the receipt of legal advice where the legal advice relates to a pending, threatened, or potential claim or other matters covered by the attorney-client privilege, settlement of legal claims, or the position of the public agency in other adversary situations involving the assertion against the agency of a claim.

### **Section 30-4-70 (a) (3)**

Discussion regarding the development of security personnel or devices.

### **Section 30-4-70 (a) (4)**

Investigative proceedings regarding allegations of criminal misconduct.

### **Section 30-4-70 (a) (5)**

Discussion of matters relating to the proposed location, expansion, or the provision of services encouraging location or expansion of industries or other businesses in the area served by the public body. (*The identity of the individual or entity being discussed is not required to be disclosed.*)

The motion to enter executive session should state all of the five matters stated above that apply as the reason(s) for going into an executive session. It is recommended that the motion include the following three items:

a) The FOIA Code Section. (Ex: SC Code Section 30-4-70 (a)(2))

b) The FOIA Code Section language. (Ex: Discussion of negotiations incident to proposed contractual arrangements, and the receipt of legal advice where the legal advice relates to matters covered by the attorney-client privilege.)

c) The "specific purpose" of the motion as required by law. "Specific purpose" means a description of the specific matter to be discussed as identified in the law. (For the discussion to renegotiate the town's contract for engineering services and to receive legal advice from our municipal attorney.)

*S.C. Code Ann. § 30-4-70(b)* provides that if an executive session is held pursuant to either *S.C. Code Ann. § 30-4-70(a)(1)* or *S.C. Code Ann. § 30-4-70(a)(5)*, then "the identity of the individual or entity being discussed is not required to be disclosed ...".

Council cannot take any action in executive session, except to adjourn or return to public session. *S.C. Code Ann. § 30-4-70(b)*. Discussions in executive session are limited by law to the topics specifically disclosed in the motion to enter executive session. In addition, the members may not commit the body to a course of action by polling members in executive session. *S.C. Code Ann. § 30-4-70(b)*. All council actions resulting from executive session discussions must be taken in public session.

# How to: Participate in a Meeting

Regardless of whether Robert's Rules or some other rules of procedure are used, meeting participation should generally follow the recommendations contained in this section.

A member must be recognized by the presiding officer before speaking.

## To gain the floor

- Raise your hand or address the presiding officer.
- Do not shout "I move."

## When making a motion

- Speak clearly and concisely.
- State your motion affirmatively.

Comment or discussion is not in order unless a motion has been made and seconded. After being seconded, the presiding officer restates the motion and calls for discussion. The maker of a motion is entitled to speak first. A member may not speak a second time on a subject until all who wish to speak have done so. A member may not continue to speak when a matter is ruled out of order.

- Direct all remarks to the presiding officer.
- Confine remarks to the subject of the motion.
- Remarks involving personalities are not in order.
- Do not use a council meeting to make a political speech.
- Do not try to explain your vote. The time for explanation is during discussion of the motion.
- Be courteous; be fair.

A member may not interrupt a speaker who has the floor without consent, except to present a privileged matter which is granted precedence over ordinary business.

Robert's Rules limit a speaker to 10 minutes. Local rules may specify a different amount of time. More time may be granted by a two-thirds vote.

Members are obligated to abide by the presiding officer's ruling, unless a motion to appeal the ruling is seconded and passed by majority vote.

All members must vote on every question unless disqualified by a conflict of interest.

## How to Make a Motion

1. Gain the floor by being recognized by the presiding officer.
2. Make your motion in clear, concise and affirmative language.

**Say:** *"I move that we deny the request."*

**Not:** *"I move that we not grant the request."*

*"I so move"* is not a proper motion.

3. Wait for a second to the motion. A member may second a motion without being recognized. A motion cannot be considered without a second, if a second is required. After the motion is seconded, the chair will restate the motion and allow discussion.
4. The maker of the motion is allowed to speak first on a motion. This is the time to explain the motion not when it is being made.
  - Direct all comments to the chair, avoid personalities and keep to the time limit.
  - The maker of the motion may speak again after all other speakers are finished.
5. When discussion ends, a vote is taken.

## How to Call for the Question

When calling to stop debate and vote on a motion, the speaker must be recognized by the chair and say, “I move (or call for) the previous question.” Members may not interrupt a speaker to gain the floor. The motion requires a second, is not debatable and may not be amended. It takes precedence over subsidiary motions (motions made while the original motion is pending) and must be put to a vote immediately.

Robert’s Rules require a two-thirds vote. If adopted by a two-thirds vote, the main motion is put to a vote and debate on the main motion ends.

## How to Amend a Motion

If a motion is subject to amendment, gain the floor and say, “I move to amend the motion.” The motion to amend requires a second and can be amended. The motion can be debated if the motion to be amended is debatable. Discussion and vote only on the amendment is then taken. If an amendment is adopted by majority vote, debate may continue on the original motion as amended. When debate ends, a vote on the amended motion is taken. Some motions not subject to amendment include a motion to adjourn, motion for the previous question and motion to suspend the rules (*See Appendix C*).

## How to Table a Motion

To temporarily suspend consideration of a motion, gain the floor and say, “I move to table the motion.” The motion is not debatable and cannot be amended. It is put to an immediate vote.

If adopted by majority vote, the matter is suspended until a motion to take it from the table is adopted.

## How to Make a Motion to Substitute

A motion to strike out and insert a new section in a motion or to replace the entire text of a pending motion is called a “motion to substitute.” It is treated in the same manner as a motion to amend. If a pending motion becomes unwieldy or confusing due to amendments, a motion to substitute can be offered to restate the question in better form. Also, a motion to substitute can be used to propose an alternative way to deal with a matter.

Gain the floor and say, “I move to substitute for the pending motion (or section in the pending motion) the following:\_\_\_\_\_.” The rules applicable to a motion to amend are followed. If the motion to substitute is adopted, the motion as amended by substitution becomes the pending motion and may be debated and voted on. Referring to a motion to substitute as a “substitute motion” causes confusion.

Section 7, Motions. in Appendix B suggests limiting the motion to clarifying the original motion and not providing a new or alternative proposal.

When a member disagrees with a motion entirely, a simpler procedure may be to move to table that motion. If the motion to table is adopted, make a new motion.

## **How to Appeal a Ruling of the Chair**

If a member disagrees with a ruling of the chair, the member may interrupt a speaker and address the chair without being recognized as soon as the ruling is made. Say, “I appeal from the decision of the chair.” The appeal must be seconded. It is generally subject to debate. The chair then puts to a vote the question: “Shall the decision of the chair be sustained?” A majority or tie vote upholds the ruling of the chair. The chair can vote. This procedure is applicable only to a ruling of the chair (e.g., “The motion is out of order”). It is not applicable to announcing the result of a voice vote. This can be corrected by calling for a “division,” a standing vote.

## **How to Make a Point of Order**

When a member thinks rules of procedure are being violated and wants to insist on their enforcement, the member may interrupt a speaker without being recognized and say, “Point of order.” No second is required, and no debate is allowed on a point of order. Once a debate begins on a motion which is out of order, a point of order is too late unless adopting the motion would result in an action which violates law or rules of council. The chair asks the member to state the point, and the chair rules whether it is “well taken” or “not well taken.” The chair’s ruling is subject to appeal. If the chair is in doubt, the chair may put the question to a vote. A point of order may be made to question the conduct of a member or speaker who violates rules of procedure.

## **How to Request Information**

If a member needs information relevant to the business at hand, the member may interrupt a speaker without being recognized and say, “A point of information, please.” The question is addressed to and answered by the chair. When needing information from the speaker, say, “I would like to ask the member a question.” The chair then asks if the member consents to interruption for a question. If so, the inquiry and reply are made in the third person through the chair. Members are not allowed to carry on discussions directly with one another.

## **How To Make a Committee Report**

A committee report may be oral or written. It is presented by the committee’s chairperson or designated member. If the report contains no recommendation for action, it is received as information. If action is recommended by a majority of the committee members, it should be stated in the form of a resolution at the end of the report. The chairperson should make a motion to adopt the resolution at the conclusion of presentation by saying: “On behalf of the committee, I move adoption of the resolution just read.” Committees containing councilmembers can make a recommendation to the council and no second is required because it already has the support of more than one member. The motion is debatable and may be amended.

## **How to Vote**

How members vote should be specified in the rules of procedure adopted by ordinance. If no rule is prescribed and Robert’s Rules have been adopted, the vote on a motion is usually taken by voice (aye or nay) or show of hands, as determined by the chair or custom. The chair must always ask for negative votes, even when it appears that the ayes have it. If the result is uncertain, a member may call for a “division” which requires members to vote by standing. A roll call vote may be required by motion or rule. Some ordinances provide that all votes are by roll call. A public body should not vote by ballot, with the possible exception of electing a member to a position such as mayor pro tempore. When a motion is obviously unopposed, the chair may announce approval without objection or by unanimous consent. If a member objects, a vote is taken.

In small bodies, abstentions can result in decisions made by less than a majority of members. Because Robert’s Rules do not prohibit abstentions, a local rule should be adopted. Sample Section 6 in Appendix B suggests a requirement that every member vote on every issue unless legally disqualified (conflict of interest). A legal disqualification is not an abstention, which is a voluntary refusal to vote. Some rules provide that an abstention be recorded as a vote in favor of the motion.

## How to Reconsider a Vote

A motion to reconsider is used to correct hasty, ill-advised or erroneous action, or to take into account new or changed information. The motion can be made only on the same day the original vote was taken, unless local rules provide otherwise (*See Appendix B Section 7*). The motion can only be made by a member who voted with the majority. The motion takes precedence over all other motions, requires a second, is debatable if the original motion was debatable, and cannot be amended.

Ordinarily, a motion to reconsider should not be made at a subsequent meeting to reverse or alter a decision with which a member disagrees. Any ordinance or resolution may be amended by a new motion to adopt an amendment placed on any subsequent agenda. Some rules prohibit a motion to be reconsidered after a set time period. A motion to reconsider may be allowed after the time period if a motion to suspend the rules is adopted.

## How to Announce a Conflict of Interest

The Ethics Act, S.C. Code Ann. § 8-13-700, provides that no public official may knowingly use his office to gain an economic interest for himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated. No public official may make, participate in making or influence a governmental decision in which he or his business has an economic interest.

The following actions are required for an official to disclose an economic interest.

1. The public official shall prepare a written statement describing the matter requiring action and the nature of the potential conflict of interest.
2. The public official shall furnish a copy of the statement to the presiding officer of the governing body.
3. The presiding officer shall direct the statement to be printed in the minutes.
4. The member shall be excused from any votes, deliberations and other actions on the matter.
5. The disqualification and the reasons for it are noted in the minutes.

The Home Rule Act, in S.C. Code Ann. § 5-7-130, provides that a municipal officer or employee who has a substantial financial interest in a business which contracts with the municipality or who personally engages in sale or lease of land, materials, supplies, equipment or services is required to make known that interest and refrain from voting upon, or otherwise participating in, related matters. Violation is a misdemeanor, and the contract or sale is voidable by the governing body.

The legal disqualification from voting because of a conflict of interest is not an abstention. There is no requirement that a disqualified member leave the meeting. The disqualified member may be counted for a quorum if allowed by the rules (*See Appendix B, Section 1*). An action may be taken by majority vote of those qualified to vote.

It is not the responsibility of the mayor, council, board, commission or presiding officer to invoke a disqualification under either the Ethics Act or the Home Rule Act. The presiding officer may not prohibit members from voting on an issue. It is the responsibility of a member who has a conflict to comply with the laws. The penalties for failure to comply fall on the offending member. *See 1991 Op. Atty. Gen. No. 91-37.*

## How to Avoid Disrupting a Meeting

The following conduct may disrupt a meeting and subject the offending member to sanctions under Robert's Rules (11th Edition) if the member refuses to obey a call to order

1. Speaking without being recognized by the presiding officer, when not in order
2. Interrupting speakers without proper reason
3. Carrying on a private conversation during a meeting
4. Asking questions or making comments not relevant to the business at hand
5. Involving personalities in comments
6. Making frivolous motions
7. Arguing with the presiding officer; making unnecessary points of order or appeals from rulings of the chair
8. Making political speeches
9. Refusing to abide by a legitimate ruling or order of the presiding officer

The Freedom of Information Act “does not prohibit the removal of any person who willfully disrupts a meeting to the extent that orderly conduct of a meeting is seriously compromised.” *S.C. Code Ann. § 30-4-70(c)*.

Robert's Rules states: “If a person—whether a member of the assembly or not—refuses to obey the order of proper authority to leave the hall during a meeting, the chair should take necessary measures to see that the order is enforced, but should be guided by a judicious appraisal of the situation.” (Consult the municipal attorney.)

## How to Adjourn a Meeting

When it is obvious all business is concluded, the presiding officer can simply announce: “Without objection, the meeting is adjourned.” This action must receive unanimous consent. If a member objects, the meeting cannot be adjourned without a proper motion.

A motion to adjourn requires a second and takes precedence over all other motions. It may not be debated or amended. The member may not interrupt a speaker to make the motion. A common form of the motion is “I move that we adjourn.” It is adopted by majority vote and cannot be reconsidered.

If an intermission is desired rather than adjournment, the motion would be “I move that we recess for (amount of time or until a time certain).” A motion for a recess is subject to the same rules as a motion to adjourn, except that it can be amended.

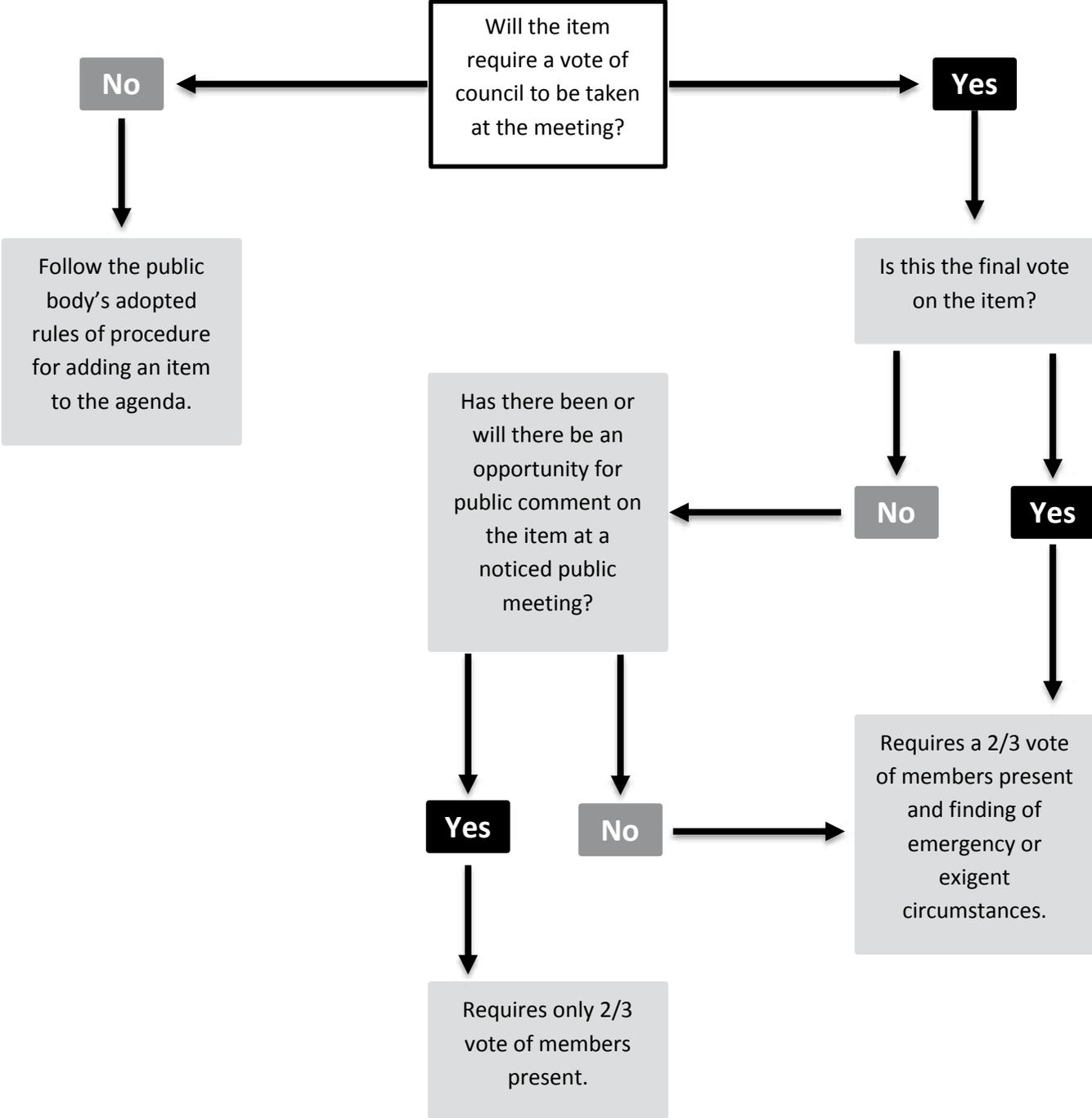
## Reacting to Disagreeable Decisions

A council is a legislative body, and its members are bound by the decisions made pursuant to the rules of procedure. A member of council who is not satisfied with the outcome of council's vote has no legal standing to challenge the decision. *Newman v. Richland County Historic Preservation Commission, 325 S.C. 79, 480 S.E.2d 72 (1997)*. In *Newman*, the court noted that the legislative process involves interaction of competing ideas that resolve themselves in a decision that may not satisfy all members, and the process should not be compromised by allowing dissenting members a right of appeal. If a member desires a change in the decision, he must go through the legislative process.

Robert's Rules states: “The great lesson from democracies to learn is for the majority to give the minority a full, free opportunity to present their side of the case, and then for the minority, having failed to win a majority to their views, gracefully to submit and to recognize the action as that of the entire organization, and cheerfully to assist in carrying it out, until they can secure its repeal.”

# Appendix A - Amending an Agenda Flowchart

Procedure to add item to a public meeting agenda within 24 hours of the meeting



# Appendix B - Sample Rules of Order

The sample ordinance and comments listed below can help draft and adopt adequate rules of procedure. It is not sufficient to simply adopt Robert's Rules because those rules do not address some matters specific to municipal government (e.g., voting by the presiding officer). The sample rules of order contains a combination of procedures recommended by the Association and actions mandated by state law or court rulings which are referenced by appropriate citations or notes.

## Ordinance Adopting Rules Of Order For Council Meetings And Enactment Of Ordinances

WHEREAS, S.C. Code Ann. § 5-7-250 (1976) requires council to determine its own rules and order of business, and S.C. Code Ann. §§ 5-7-260 through 5-7-290 provide for the form, method of adoption, and codification of ordinances;

*Note: S.C. Code Ann. §5-7-250 authorizes a council to adopt its own rules and order of business. Rules must not conflict with general state law.*

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the [City or Town] of \_\_\_\_\_ and shall be codified: that the following rules of order are adopted

### Section 1. Quorum and rules of order.

A majority of councilmembers serving constitutes a quorum for the conduct of business at any meeting. The mayor shall serves as presiding officer. Immediately after any general election for the council, the council shall elect one member of their body as a mayor pro tempore to serve as such for two years, who shall act as mayor during the absence or disability of the mayor, and if a vacancy occurs, shall act as mayor until a successor is duly qualified and elected.

If both the mayor and mayor pro tempore are absent, the members present shall elect a presiding member. A member present but disqualified from voting on a question by state law due to a conflict of interest shall be counted for purposes of a quorum.

*Notes: The FOI Act [S.C. Code Ann. § 30-4-20(e)] provides that a quorum is a majority of the constituent membership unless otherwise defined by applicable law.*

*In the council and council-manager forms of government, the mayor presides over meetings by tradition.*

*S.C. Code Ann. § 5-7-190 provides that the mayor pro tempore shall act in the absence of the mayor.*

Except as otherwise required by state law or this code, all proceedings shall be governed by Robert's Rules of Order, 11th Edition, and the [City/Town] attorney shall act as parliamentarian. The mayor, without debate, will decide questions of order. The decision is subject to appeal to the council. A two-thirds vote is required to overturn a ruling by the mayor.

*Note: Suggested as a local rule.*

### Section 2. Meetings of council.

Regular meetings of council shall be held at \_\_\_\_\_ [a.m./p.m.] on the \_\_\_\_\_ in each month unless changed by majority vote of members present at any regular or special meeting.

*Note: S.C. Code Ann. § 5-7-250(a) requires a council to meet at least once in every month at times and places the council may prescribe by rule.*

Special meetings of council may be held on the call of the mayor or a majority of members of council.

*Note: S.C. Code Ann. § 5-7-250(a) authorizes special meetings at the call of the mayor or a majority of members of council. Notice and agenda provisions must meet FOIA requirements.*

All regular and special meetings of council shall be open to the public.

*Note: The FOI Act [S.C. Code Ann. § 30-4-60] requires every meeting of a public body to be open to the public unless closed pursuant to S.C. Code Ann. § 30-4-70 authorizing executive sessions.*

### **Section 3. Public notice and agenda.**

For all regularly scheduled meetings, the [city/town] clerk shall **give written public notice** of the municipality's regular meetings at the beginning of each calendar year. The annual meeting notice shall include the dates, times and places of all regularly scheduled meetings pursuant to S.C. Code Ann. § 30-4-80(a) and (d).

For all special, called or rescheduled meetings, the [city/town] clerk shall **give written public notice** of the meeting by posting the notice on a bulletin board in a publicly accessible place at the office or meeting place of council and on the [city/town] website at least 24 hours prior to such meetings.

The public meeting notice shall include the agenda, date, time and place of the meeting and shall be posted as early as is practicable but not later than 24 hours before the meeting.

Notice of meetings shall also be provided to all available members of council, and persons, organizations and news media which request notification.

A written agenda, listing the items to be considered by council, is required for all regular, special, called or rescheduled meetings. The required agenda shall be posted on a bulletin board in a publicly accessible place at the office or meeting place of council and on the [city/town] website at least 24 hours prior to such meetings.

*Note: Posting the meeting notice and agenda to the municipal web site is only required if the municipality has a website. This language may be removed if there is not a municipal website.*

The deadline for agenda item requests from members of council is \_\_\_\_\_.

### **Section 4. Adding an item to the agenda.**

Once an agenda for a regular, called, special or rescheduled meeting is posted, no items may be added to the agenda without an additional 24-hour notice to the public, which must be made in the same manner as the original posting.

After a meeting has been called to order, items proposed to be added to the agenda are classified into three categories each of which requires distinct actions to authorize the item to be added to the agenda. The required categories and actions are as follow:

#### **Information only item**

After the meeting begins, an item, which does not require a vote or action of council may be added to an agenda by a majority vote.

#### **Action items with public comment**

After the meeting begins, an action item, which is not a final action and for which public comment has been or will be received at a publicly noticed meeting, may be added to the agenda by a two-thirds vote of the members present and voting.

#### **Action item without public comment**

After the meeting begins, an action item, which is a final action or for which public comment has not been or will not be received, may be added to the agenda by a two-thirds vote of the members present and voting and a finding of an emergency or exigent circumstances.

The following motion shall be used to amend an agenda by emergency or exigent circumstances.

**In accordance with S.C. Code Annotated § 30-4-80 (A), the [NAME OF PUBLIC BODY] finds an emergency or exigent circumstance does or will exist if the [ACTION OR NAME OF ITEM] is not added to the current meeting agenda for the body's consideration and desired action before the conclusion of this meeting.**

*Note: Council, in determining what constitutes "exigent circumstances," should consider the following definition. Exigent means, "requiring immediate attention or needing to be dealt with immediately." The exigent circumstance exception should not be used if it is possible to schedule a properly noticed called meeting to deal with the issue to be discussed. See Appendix A for flow chart on adding items to the agenda.*

## **Section 5. Executive sessions.**

By majority vote in a public meeting, council may hold an executive session as permitted by the South Carolina Freedom of Information Act. *S.C. Code Ann. § 30-4-70*. The motion to enter executive session shall include a detailed description of the purpose for the executive session and cite all of the specific subsections of Section 30-4-70 (a) that apply to the executive session. Authorized purposes include:

### **Section 30-4-70 (a) (1)**

Discussion of employment, appointment, compensation, promotion, demotion, discipline, or release of an employee, a student, or a person regulated by a public body or the appointment of a person to a public body. *(The identity of the individual or entity being discussed is not required to be disclosed.)*

### **Section 30-4-70 (a) (2)**

Discussion of negotiations incident to proposed contractual arrangements and proposed sale or purchase of property, the receipt of legal advice where the legal advice relates to a pending, threatened, or potential claim or other matters covered by the attorney-client privilege, settlement of legal claims, or the position of the public agency in other adversary situations involving the assertion against the agency of a claim.

### **Section 30-4-70 (a) (3)**

Discussion regarding the development of security personnel or devices.

### **Section 30-4-70 (a) (4)**

Investigative proceedings regarding allegations of criminal misconduct.

### **Section 30-4-70 (a) (5)**

Discussion of matters relating to the proposed location, expansion, or the provision of services encouraging location or expansion of industries or other businesses in the area served by the public body. *(The identity of the individual or entity being discussed is not required to be disclosed.)*

*Note: For more details of proper method to go into executive session, refer to page 8 in this publication.*

No vote or formal action shall be taken in executive session except to adjourn or return to public session.

*Note: The FOI Act [S.C. Code Ann. § 30-4-70(b)] prohibits a vote or action in executive session except to adjourn or return to public session.*

Minutes of executive sessions will not be taken.

*Note: The FOI Act [S.C. Code Ann. § 30-04-90] requires minutes of all public meetings. Minutes are not required for executive sessions. If minutes of executive sessions are kept, they are not public records. S.C. Code Ann. §30-4-50(7).*

It shall be unlawful for a member of council or person in attendance at an executive session to disclose to another person or make public the substance of a matter discussed.

*Note: Suggested as a possible local rule. This provision should be regarded as a rule governing conduct of members of council. It does not conflict with the FOIA. It may be defended as a limitation on the freedom of speech for an overriding public interest in having government business conducted properly.*

## **Section 6. Voting requirements.**

All actions of council shall be by majority vote of members present at a public meeting, including suspension of a rule of order, provided that an ordinance amending rules of order shall be adopted by a majority of members serving.

*Note: Suggested as a local rule.*

Every member of council present, including the mayor or presiding member, shall vote on every question except when required to refrain from voting by state law.

*Note: Suggested as a local rule. If voluntary abstentions are allowed, a provision that an abstention shall be recorded in the minutes as a vote in favor of the motion is suggested.*

A roll call vote may be required by any member of council.

*Note: Suggested as a local rule.*

The vote on every question shall be recorded in the minutes.

*Note: Required by the FOIA. S.C. Code Ann. § 30-4-50(7)*

No member of council may leave the council chamber while in public session without permission of the presiding officer.

*Note: Suggested as a local rule.*

## **Section 7. Motions.**

A motion may be made orally or in writing; however, a motion shall be reduced to writing at the request of any member of council.

*Note: Suggested as a local rule.*

A motion to reconsider must be made by a member who voted with the majority. It must be made at the same or next meeting.

*Note: Robert's Rules allow a motion to reconsider only on the same day the vote was taken. Allowing a motion to reconsider at the next meeting is suggested as a local rule.*

A substitute motion may be made only to restate and clarify a pending motion and amendments. It may not be used to introduce a new or alternative proposal.

*Note: This provision conforms to Robert's Rules and is suggested as a reminder.*

## **Section 8. Minutes of meetings.**

The [city/town] clerk shall keep minutes of all public meetings which shall be a matter of permanent public record. At each regular council meeting, the minutes of the previous meeting must be presented for approval. Minutes do not constitute the official record of a meeting until approved by council. A member of council may place a written expression of position on a matter in the minutes no later than the next regular meeting.

*Note: S.C. Code Ann. § 5-7-220 requires the clerk to keep minutes of council meetings which are made public records by S.C. Code Ann. § 5-7-250(b) and the FOI Act [S.C. Code Ann. § 30-4-50(7)].*

## **Section 9. Appearance of citizens.**

Any citizen of the municipality may speak at a regular meeting on a matter pertaining to municipal services and operations, except personnel matters, by signing an agenda list maintained by the clerk prior to the meeting stating the subject and purpose for speaking. Each person who gives notice may speak at a time designated by the presiding officer and may be limited to a [two] minute presentation at the discretion of the presiding officer.

*Note: Suggested as a local rule.*

## **Section 10. Attorney to attend; parliamentarian; duties.**

The [city/town] attorney shall attend all meetings of council unless excused by council. The attorney shall act as parliamentarian; draft ordinances and resolutions; review all ordinances, resolutions and documents presented to council; and give opinions on questions of procedure, form and law to members of council.

*Note: Suggested as a local rule. If the attorney is not required to attend all meetings, the council should designate a parliamentarian.*

## **Section 11. Clerk to attend; duties.**

The [city/town] clerk shall give notices of meetings, post agendas, attend regular and special meetings, record votes of council, keep minutes of council meetings and perform such other duties as may be assigned.

*Note: Statutory duties of the clerk are prescribed in S.C. Code Ann. § 5-7-220.*

## **Section 12. Hearings by committee.**

Council may appoint a special committee to assist in or hold a public hearing for council at any time upon any matter pending before it. Minutes or reports of hearings held by special committee shall be filed with the [city/town] clerk as a public record.

*Note: Suggested as a local rule.*

## **Section 13. Ordinances required.**

a) Council shall act by ordinance in all matters required by law to be done by ordinance, including

1. adopt or amend an administrative code or establish, alter or abolish any municipal department, office or agency;
2. provide for a fine or other penalty or establish a rule or regulation in which a fine or other penalty is imposed for violation;
3. appropriate funds and adopt a budget;
4. grant, renew or extend franchises, licenses, or rights in public streets or public property, and close abandoned streets, after public newspaper notice and public hearing;
5. levy taxes, assess property for improvements or establish service charges for services;

6. annex area to the municipality;
7. convey or lease or authorize the conveyance or lease of any lands of the municipality; and
8. amend or repeal any ordinance.

b) In all other matters, council may act either by ordinance or resolution recorded in the minutes, unless otherwise required by local rule.

*Note: Provisions of this section are required by S.C. Code Ann. § 5-7-260 and other statutes.*

## **Section 14. Form of ordinances and resolutions.**

a) Every proposed ordinance shall be introduced in writing in the form required for final adoption which shall include

1. a title briefly describing the content;
2. findings, reasons or basis for the ordinance, if desired and appropriate;
3. an enacting clause;
4. the provisions of the ordinance including section numbers if the ordinance is to be codified or amends an existing codified ordinance;
5. citation of any ordinance repealed;
6. effective date of the ordinance;
7. name of the person requesting introduction of the ordinance;
8. approval of the [city/town attorney] as to form and the assignment of an ordinance number;
9. space for dates of readings and public hearing, if appropriate; and
10. space for the signatures of the mayor or presiding member of council and the municipal clerk attesting notice, if required, and adoption.

b) Written resolutions may be in similar form approved by the city attorney.

*Note: All ordinances must be introduced in writing in the form required for final adoption pursuant to rules for adoption established by council. S.C. Code Ann. § 5-7-270.*

## **Section 15. Introduction of ordinances.**

Any member of council may propose an ordinance. A proposed ordinance shall be referred to the [city/town] attorney for approval as to form. After an ordinance is in proper form, the [city/town] attorney shall send the ordinance to the [city/town] clerk to be held for public inspection. An ordinance is considered to be introduced when it appears on an agenda for a public meeting of council and its title is read.

*Note: Suggested as a local rule.*

## **Section 16. Enactment of ordinances.**

An ordinance must be prepared in writing and introduced in the form required for final adoption as required by Section 14.

No ordinance may be adopted until it has been read two times and on separate days with at least six days between each reading.

*Note: Some municipalities by local rules require three readings. State law only requires two readings.*

An emergency ordinance may be adopted on one reading, without notice or hearing, by affirmative vote of two-thirds of members present. An emergency ordinance may not levy taxes or relate to a franchise or a service fee. An emergency ordinance expires automatically on the 61st day following enactment.

*Note: Required by S.C. Code Ann. §§ 5-7-250 and 270.*

The introduction and reading of any ordinance shall be by the reading of the title only unless full reading is requested by a member of council.

*Note: Suggested as a local rule.*

After the introduction of an ordinance, a member of council may request a public hearing which may be held if approved by a majority of council present and set for a time prior to final adoption of the ordinance. A public hearing may be held on the same date as the final reading.

*Note: Suggested as a local rule.*

Any ordinance may be amended on final reading.

*Note: Suggested as a local rule.*

Upon final adoption by vote of council, an ordinance shall be signed by the mayor or presiding member of council and attested by the [city/town] clerk, who shall file the original with the minutes in the permanent public records.

*Note: Suggested as a local rule.*

## **Section 17. Introduction of resolutions.**

Resolutions may be introduced in writing or orally. A voice motion is used to introduce an oral resolution, which requires no written record other than a notation in the meeting minutes. A resolution proposed in writing shall be introduced in the same manner as an ordinance.

*Note: Suggested as a local rule.*

## **Section 18. Adoption of resolutions.**

Written resolutions may be adopted on one reading unless a public hearing is set by majority vote of members present.

*Note: Suggested as a local rule.*

## **Section 19. Codification of ordinances.**

All ordinances shall be codified and updated annually in a loose-leaf Code of Ordinances, except those adopted by reference and maintained in separate volumes. Copies shall be available for public inspection and purchase at a reasonable cost.

*Note: S.C. Code Ann. § 5-7-290 requires codification of ordinances and provision for public inspection.*

## **Section 20. Electronic Council or Committee Meeting Attendance.**

Council members may participate electronically in council or committee meetings and possess the same authority as members who are physically present at the meeting, provided that all of the following conditions are met:

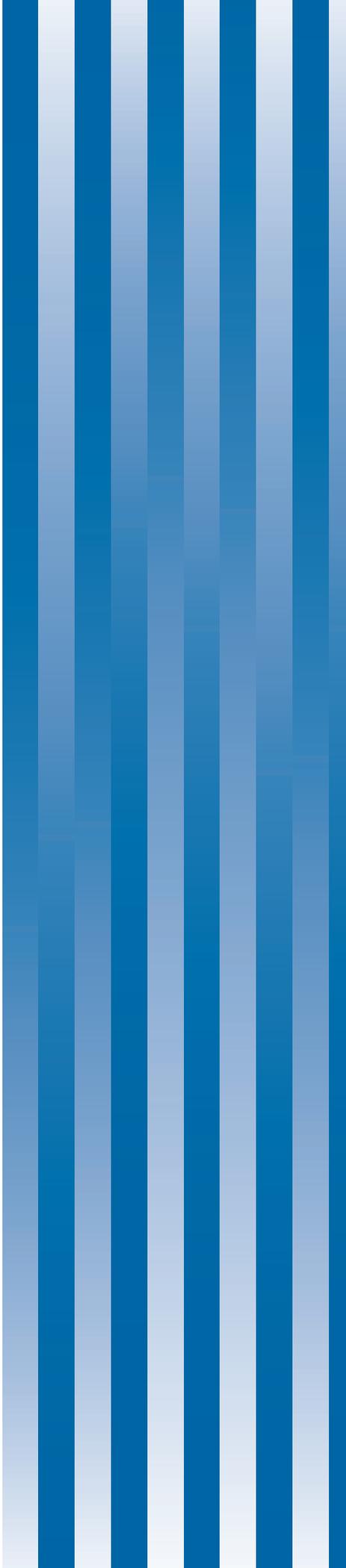
1. A quorum of the council members are physically present at the meeting place and remain physically present throughout the meeting;
2. The presiding officer is physically present at the meeting;
3. Council members, attending in person and by electronic means, and persons in attendance at the council meeting can hear any and all comments made at the meeting; and,
4. All comments, motions and votes of the member(s) attending telephonically are recorded in the minutes of the meeting.

Electronic participation shall be limited to situations that prevent physical attendance at meetings and not used as the primary method of meeting attendance.

# Appendix C - Table Of Common Motions

To Do This	Say This	Second?	Debatable?	Amend?
Approve Ordinance	"I Move that Ordinance No. ___ be approved on first reading."	Yes	Yes	Yes
Adopt Ordinance on Second Reading	"I Move that Ordinance No. ___ be adopted."	Yes	Yes	Yes
Adopt a Resolution	"I move that Resolution No. ___ be adopted."	Yes	Yes	Yes
Amend a Motion	"I move to amend the motion by ___."	Yes	Yes	Yes
Move to Substitute	"I move to substitute for the pending motion (or section) the following: ___." (Treated as a motion to Amend.)	Yes	Yes	Yes
Table a Motion	"I move to table the motion." (Temporarily suspend consideration).	Yes	No	No
Take Matter Off The Table	"I move to take from the table ___"	Yes	No	No
Postpone Action	"I move to postpone the ___ until ___."	Yes	Yes	Yes
Call for the Question	"I move the previous question," or "I call for the question."	Yes	No	No
Suspend the Rules	"I move to suspend the rules so that ___" (Requires 2/3 vote unless local rule provides otherwise.)	Yes	No	No
Appeal Ruling of the Chair	"I appeal from the decision of the chair (mayor)." (May interrupt)	Yes	Yes	No
Protest Breach of Rules	"Point of Order." (May interrupt speaker without being recognized)	No	No	No
Request Information	"A point of information, please." (May interrupt)	No	No	No
Reconsider an Action	"I move to reconsider the vote on ___." (May interrupt)	Yes	Same as Orig.	No
Go into Executive	"I move that council go into executive session for the purpose of ___." (State specific purpose - see FOI Act).	Yes	Yes	Yes
Recess Meeting	"I move that we recess for ___ (time)."	Yes	No	Yes
Adjourn Meeting	"I move that we adjourn." (Takes precedence over all other motions)	Yes	No	No





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