

RESOLUTION NO. 16-40  
CITY OF HAPPY VALLEY, OREGON

A RESOLUTION ADOPTING AMENDED COUNCIL RULES

**WHEREAS**, the City of Happy Valley (City) adopted its current Council Rules by Ordinance No 353 on April 17, 2007.

**WHEREAS**, Section 10 of the 2009 City Charter now directs the City Council to adopt its rules by Resolution rather than Ordinance; and

**WHEREAS**, on June 21, 2011, the City Council adopted Resolution 11-14 amending the Council Rules;

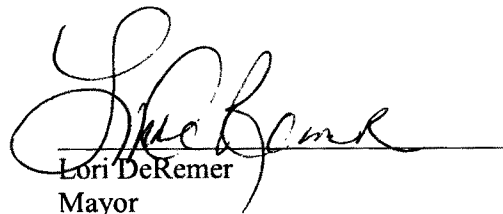
**WHEREAS**, since that time, changes have become necessary to address Council Members use of social media.

**NOW THEREFORE, BASED ON THE FOREGOING THE CITY OF HAPPY VALLEY RESOLVES AS FOLLOWS:**


**Section 1.** The City of Happy Valley adopts the amended Council Rules attached as Exhibit A to this Resolution in compliance with the City Charter.

**Section 2.** This Resolution takes effect upon its adoption.

ADOPTED BY THE CITY COUNCIL ON SEPTEMBER 20, 2016

  
Lori DeRemer  
Mayor

Adoption and date attested by:

  
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Kara Kerpan  
Deputy City Recorder

## **EXHIBIT A**

### **CITY OF HAPPY VALLEY CITY COUNCIL RULES**

#### **A. AUTHORITY**

City Charter Section 10 requires the Council to by resolution adopt rules to govern its meetings. The Council will review its rules at its first meeting in January of even numbered years. Amendments will be made as necessary. The Council will have clear and simple procedures for considering agenda matters.

#### **B. DEFINITIONS** As used in these Rules, the following mean:

1. City Committees: All City committees, commissions, task forces, and advisory bodies.
2. Council and Council members: The Mayor, the Council President, and the Councilors.
3. Councilors: The Council President and the Councilors.
4. Mayor: The Mayor or in the absence of the Mayor the Council President or other Presiding Officer.

#### **C. COUNCIL MEETINGS**

1. Regular Meetings to conduct Council business will be held as needed.
2. Work Sessions to develop city policy will be held each month. Work sessions may be held in conjunction with Council business meetings. Work session agendas will be developed by the City Manager in consultation with the City Council.
3. Special Meetings may be called by the Mayor, Council President in the absence of the Mayor or by a majority of the Council.
4. Executive Sessions will be held in compliance with the Oregon Public Meetings law.
5. Minutes will be taken as provided by the Oregon Public Records law.
6. Telephonic/Electronic Meetings may be held in compliance with the Oregon Public Meetings law. Council members may participate and vote in Council

meetings via telephone, electronically, or by other means consistent with the Oregon Public Meetings Law.

7. Attendance at meetings is expected of Council members who should use their best efforts to attend all Council meetings.

#### **D. AGENDA**

1. The agenda headings for Council business meetings are generally as follows:

- a. CALL TO ORDER
- b. PLEDGE OF ALLEGIANCE
- c. ROLL CALL
- d. APPEARANCE OF INTERESTED CITIZENS
- e. PRESENTATIONS & REPORTS
- f. CONSENT AGENDA
- g. PUBLIC HEARINGS
- h. CITY MANAGER REPORT
- i. COUNCIL CONCERNS & COMMENTS
- j. ADJOURNMENT

2. The City Manager will prepare and schedule agenda items. Council members may request that items be placed on an agenda. Council members may make agenda suggestions at any Council meeting or by communication with the City Manager. Council members will make best efforts to reach consensus on agenda items and should obtain staff input before requesting an agenda item. Agendas will generally be set to allow meetings to end no later than 10:00 p.m. If the Council is still in session at 9:30 p.m., then the Council will decide whether to continue with the agenda or move items to a future agenda.

#### **E. COUNCIL DISCUSSIONS AND DECORUM**

1. Council members will conduct themselves so as to bring credit upon the city government, ensuring non-discriminatory delivery of public services, keeping informed about matters coming before the Council and abiding by Council decisions, whether or not the member voted on the prevailing side.
2. Councilors will assist the Mayor to preserve order and decorum during Council meetings and may not, by conversation or other action, delay or interrupt the proceedings or refuse to obey ruling of the Mayor or Council rules. When addressing staff or members of the public, Councilors will confine themselves to questions or issues under discussion and not engage in personal attacks, or impugn the motives of any speaker.

3. The following ground rules will be observed to maintain order and decorum during Council discussions:
  - a. Council members will gather necessary information and ask questions of city staff before meetings.
  - b. Council members will have an opportunity to speak once on any pending motion or agenda item, and will speak for themselves and not for other Council members.
  - c. Council members will not speak on behalf of the Council, unless they have been authorized by the Council to do so.
  - d. During public meetings, Council members will not attempt to edit or revise prepared ordinances. Amendments to proposed ordinances may be appropriate, but input from the City Manager or the City Attorney will be sought to accomplish the Council members' objectives.
  - e. Council members will be open, direct and candid in the Council forum. Members should be brief and succinct in stating their views and focus on a single issue or topic at any one time.
  - f. Council members will focus on city issues and avoid becoming involved in "extra-territorial" issues.
  - g. The Mayor will recognize Councilors wishing to speak in the order of their requests. The Mayor will provide a Council member with an opportunity to speak before recognizing another Council member. Council members will not interrupt another Council member who has the floor.
  - h. Council members will not disguise statements as questions or use repetitions as a way to convince others.
  - i. Council members will keep discussions moving and call for a "process check" if the Council becomes bogged down in discussions.
  - j. Council members will set and adhere to time limits on discussions.
  - k. Council members will refrain from criticizing or attacking each other, city staff or other persons.
  - l. If a Council member wishes to discuss a major policy issue, it will be scheduled on a future agenda and not raised during a current agenda.

4. Public Comment.

a. Citizen and community group sign-up forms will be available at each regular business meeting. At the time on the agenda designated for public comment and during any public hearing, any member of the public desiring to address the Council must first request to be recognized by the Mayor and then state their name and address for the record. The Council may set time limits for comments. The Council may request that groups with like comments choose a spokesperson to present joint remarks.

b. During public hearings, all public comment must relate to the matter under discussion and addressed to the Mayor.

c. In general, Council members will not respond to comments made during the public comment agenda time, except to ask clarifying questions. Any public requests for Council action will be referred to staff for review before placing on a future agenda.

**F. COUNCIL MEETING DECORUM**

1. The following conduct is disruptive and cause for removal of any person from a council meeting:

a. Loud or abusive language, noise or conduct that obstructs the conduct of the council meeting,

b. Violent or distracting actions,

c. Damage to personal or city property, or

d. Refusal to obey an instruction from the mayor or presiding officer or decision of the council.

2. The mayor or presiding officer must warn a person to cease the disruptive conduct before ordering removal of the person from the council meeting.

3. If a council meeting is disrupted by members of the audience, the mayor or presiding officer may order the council chambers cleared.

4. The mayor or presiding officer has the authority to preserve order at all council meetings, remove any person from any meeting for disorderly conduct, and enforce the council rules. The mayor or presiding officer may command the assistance of a police officer to restore order at any meeting.

5. After a motion has been made or after a public hearing has been closed, no public member may address the council without the permission of the council.

## **G. MOTIONS**

1. General.
  - a. Council member motions will be clearly and concisely stated. The Mayor will state the name of the Councilor who made the motion and the Councilor who made the second.
  - b. The motion maker, Mayor, or City Recorder should repeat the motion prior to voting.
  - c. Most motions die if they do not receive a second. Motions for nominations, withdrawal of a motion, agenda order, roll call votes, and a point of order do not require a second. Any motion on which a second is not made but on which discussion begins is automatically seconded by the Council member beginning the discussion.
  - d. Discussion of a motion is open to all Council members who wish to address the motion. A Councilor must be recognized by the Mayor before speaking.
  - e. The Mayor will ask for a voice vote for all final decisions. All Council members are expected to vote on each motion unless they are disqualified for some reason. A Council member who does not vote must state the basis for any conflict of interest or other disqualification. The City Recorder will maintain a record of the votes. Any Council member may request a roll call vote on any motion.
  - f. At the conclusion of any vote, the Mayor will announce the results. Council members who wish to explain the reasons for their votes should do so briefly and succinctly.
2. Withdrawal. A motion may be withdrawn by the mover at any time without the consent of the Council.
3. Tie. A motion that receives a tie vote fails.
4. Table. A motion to table is not debatable and precludes all amendments or further debate. If the motion prevails, the item may be taken from the table only by adding it to a future agenda for continued discussion.

5. Postpone. A motion to postpone to a certain date is debatable and amendable. A motion to postpone indefinitely is a motion to reject without a direct vote and is debatable and not amendable.
6. Call for Question. A motion to call for the question ends debate on the item and is not debatable. Before a Council member calls for the question, each Council member wishing to speak on the item should have one opportunity to speak. A second is required for this motion. When the question is called, the Mayor will inquire whether any Council member objects. If there is an objection, the matter will be put to a vote, and it fails without a two-thirds' vote. Debate may continue if the motion fails.
7. Amendment. A motion to amend may be made to a previous motion that has been seconded but not voted on. Amendments will be voted on first, then the main motion as amended (or not amended). Motions to adjourn, agenda order, table, point of order, take from table, and reconsider may not be amended.
8. Reconsideration. When a motion has been decided, any Council member who voted with the majority may move for reconsideration. A motion for reconsideration may only be made at the meeting at which the motion on the ordinance, resolution, order or other decision was approved.

## **H. COUNCIL MEMBER CONDUCT**

1. Representing City. If a Council member appears before another governmental agency or organization to give a statement on an issue, the Council member must state:
  - a. Whether the statement reflects personal opinion or is the official position of the City; and
  - b. Whether the statement is supported by a majority of the Council.

If the Council member is representing the city, the Council member must support and advocate for the official city position on the issue rather than a personal viewpoint.
2. Censure.
  - a. The Council may make and enforce its own rules and ensure compliance with city and state laws applicable to governing bodies. If a Council member substantially violates these rules or state law, the Council may take action to protect Council integrity and discipline the Council member with a public reprimand.
  - b. The Council may investigate the actions of any Council member and meet in executive session to discuss any finding that reasonable grounds exist that a

substantial violation has occurred. Under ORS 192.660(1)(b), the Council member under investigation may request an open hearing.

## **I COUNCIL MEMBER USE OF SOCIAL MEDIA**

1. On social media platforms, council members are encouraged to exercise caution when commenting on municipal affairs. While using social media, City Council members are subject to applicable Oregon Laws as they pertain to public meetings and public records retention schedules.
  - a. According to ORS 192.610, a public meeting occurs when a quorum is required in order to make a decision or to deliberate toward a decision on a matter. Under Oregon Law, certain telephone and electronic communications may be considered a public meeting. Certain uses of social media may constitute a public meeting, and accordingly, Councilors should use appropriate caution to avoid such situations.
  - b. A public record created through a Council member's social media footprint must be retained by the elected official in accordance with any state laws and local retention schedules. A "public record" encompasses any information that is prepared, owned, used or retained by the city; relates to an activity, transaction or function of the city; and is necessary to satisfy the fiscal, legal, administrative or historical policies, requirements or needs of the city. Councilors should forward social media posts to the City, or seek other assistance from the City for retention if the individual Councilor does not wish to do so himself or herself.
  - c. The digital decorum of elected and appointed officials will be governed by City Council Rules. Consistent with these rules, Council members will conduct themselves so as to bring credit upon the City government, ensuring non-discriminatory delivery of public services. Councilors shall abide by section S(3) in all social medial activities.
2. City Council members will refrain from posting comments that:
  - a. Express a council or committee position prior to a Council or committee determination of a position or on a matter that would otherwise require council or committee authorization prior to the conveyance of a position, or;
  - b. Express an opinion in a manner contrary to section S(3) of these rules.

## **J. CONFIDENTIALITY**

1. Council members will keep all written materials provided to them on matters of confidentiality under law in complete confidence to insure that the City's position is



not compromised. No mention of the information read or heard should be made to anyone other than other Council members, the City Manager or City Attorney.

2. If the Council meets in executive session, members should attempt to provide direction or consensus to staff on proposed terms and conditions for negotiations. All contact with other parties must be left to the designated staff or representative(s) handling the negotiations or litigation. Council members may not have any contact or discussion with any other party or its representative nor communicate any executive session discussion.
3. All public statements, information or press releases relating to a confidential matter will be handled by designated staff or a designated Council member.
4. Unless required by law, no Council member may make public the discussions or information obtained in executive session. Council may censure a member who discloses a confidential matter or otherwise violates these rules.

#### **K. COMMUNICATION WITH STAFF**

1. Council will respect the separation between policy making (Council function) and administration (City Manager function) by:
  - a. Working with the staff as a team with a spirit of mutual respect and support.
  - b. Except in a Council meeting, not attempting to influence a city employee or the City Manager concerning personnel matters, purchasing issues, the award of contracts or the selection of consultants, the processing of development applications or granting of city licenses and permits. However, the sharing of ideas on these matters is appropriate.
  - c. Limiting individual contacts with city staff to the City Manager so as not to influence staff decisions or recommendations, interfere with their work performance, undermine the City Manager authority or prevent the full Council from having benefit of any information received.
  - d. Respecting roles and responsibilities of staff when and if expressing criticism in a public meeting or through public electronic mail messages.
2. All written informational material requested by Council members will be submitted by staff to the entire Council with a notation stating who requested the information.
3. The Mayor will refer any comments or questions regarding city personnel or administration to the City Manager. The Mayor may redirect other questions to a Council member or the City Manager, as appropriate. Council members may also address questions directly to the City Manager, who may either answer the inquiry or ask a staff member to do so.

## **L. MINUTES**

1. Minutes will be prepared with sufficient detail to meet their intended use. Verbatim minutes are not required. The minutes of meetings of the Council will comply with provisions of ORS 192.650 by containing the following information at a minimum:
  - a. The name of Council members and staff present;
  - b. All motions, proposals, resolutions, orders, ordinances and measures proposed and their disposition;
  - c. The result of all votes, including ayes and nays and the names of the Council members who voted.
  - d. The substance of the discussion on any matter.
  - e. Reference to any document discussed at the meeting.
2. The Council may amend the minutes to more accurately reflect what transpired at the meeting. Upon receipt of the minutes in the Council agenda packet, Council members should read and submit any changes, additions or corrections to the City Recorder so that a corrected copy may be issued prior to the meeting for approval. Under no circumstances may the minutes be changed following approval by the Council, unless the Council authorizes such change.
3. The City Recorder or designee will make an audio recording of all meetings except for executive sessions. The City Recorder will maintain custody of all tapes, but a Council member may obtain a copy of any tape. A Council member may obtain a meeting transcript or partial transcript if it can be produced with nominal staff time. If a transcript would require a significant amount of staff time, the City Recorder may only produce the transcript with Council approval. The City Recorder is authorized to produce transcripts as required by law.

## **M. ADJOURNMENT**

1. Upon motion and majority vote of the Council members present, any meeting of the Council may be continued or adjourned from day to day or for more than one day. No adjournment may be for a period longer than until the next regular meeting.
2. Upon the request of a Council member a short recess may be taken during a Council meeting.
3. A motion to adjourn will be in order at any time except as follows:
  - a. When made as an interruption of a member while speaking; or
  - b. While a vote is being taken.

## **N. BIAS AND DISQUALIFICATION**

1. Any proponent, opponent or other party interested in a quasi-judicial matter to be heard by Council may challenge the qualification of any Council member to participate in such hearing and decision. Any challenge must state any fact(s) relied upon by the party relating to a Council member's bias, pre-judgment, personal interest or other factor from which the party has concluded the Council member should not participate and may not make an impartial decision. Such challenges must be made prior to the commencement of the public hearing. The Mayor will give the challenged member an opportunity to respond. A motion to accept or deny the challenge will be accepted and voted upon by the Council. Such challenges and the Council's decision will be incorporated into the record of the hearing.
2. In quasi-judicial matters, each Council member must disclose participation in a prior decision or action on the matter that is before the Council. Common examples include when a Planning Commission member is elected or appointed to the City Council or when a Council member testifies at a Planning Commission meeting. The Council member must state whether the member can participate in the hearing with no regard for the prior decision made. If the Council member is unable to be impartial, the member has a duty not to participate in proceedings and leave the Council table.
3. If the Council believes that the member is actually biased, it may disqualify the member by majority vote from participating in a decision on the matter. A Council member who has been disqualified from participating in a decision may participate in the proceeding as a private citizen.
4. Generally, conflicts of interest arise in situations where a Council member, as a public official deliberating in a quasi-judicial proceeding, has an actual or potential financial interest in the matter before the Council. Under state law, an actual conflict of interest is defined as one that would be to the private financial benefit of the Council member, a relative or a business with which the Council member or a relative is associated. A potential conflict of interest is one that could be to the private financial benefit of the Council member, a relative or a business with which the Council member or a relative is associated. A relative means the spouse, children, siblings or parents of the public official or public official's spouse. A Council member must publicly announce potential and actual conflicts of interest and, in the case of an actual conflict of interest, must refrain from participating in debate on the issue or from voting on the issue.

## **O. EX PARTE CONTACTS AND DISQUALIFICATION**

1. For quasi-judicial hearings, Council members should refrain from having *ex parte* contacts relating to any issue of the hearing. *Ex parte* contacts are those contacts by a party on a fact in issue under circumstances that do not involve all parties to the proceeding. *Ex parte* contacts may be either oral statements when other interested

parties are not present, or written information that other interested parties do not receive.

2. If a Council member has *ex parte* contact prior to a hearing, the member must reveal the contact at the meeting and before the hearing. The Council member must describe the substance of the contact and the Mayor will announce the right of interested persons to rebut the substance of the communication. The Council member also will state whether such contact affects their impartiality or ability to vote in the matter. The Council member must state whether the member will participate or abstain.
3. For quasi-judicial hearings, a Council member who was absent during the presentation of evidence may not participate in any deliberations or decision regarding the matter, unless the Council member reviews all the evidence and testimony received.

**P. GOVERNMENT STANDARDS AND PRACTICES COMMISSION REQUIREMENTS AND REPORTING**

1. Council members must review and observe the requirements of the State Ethics Law (ORS 244.010 to ORS 244.390) dealing with use of public office for private financial gain.
2. Council members must give public notice of any conflict of interest or potential conflict of interest and the notice will be reported in the meeting minutes. In addition to matters of financial interest, Council members will maintain the highest standards of ethical conduct and assure fair and equal treatment of all persons, claims and transactions coming before the Council.
3. In accordance with ORS 244.195, it is each Council member's responsibility to file annual statements of economic interest with the Government Standards and Practices Commission

**Q. LEGAL ADVICE**

Requests to the City Attorney for advice requiring legal research may not be made by a Council member without the concurrence of the Council. Before requesting research or other action by the City Attorney, the Council members are encouraged to consider consulting with the City Manager to determine if the request or action can be accomplished more cost-effectively. Outside a Council meeting, a Council member should make requests of the City Attorney through the City Manager. Exceptions to this are issues related to the performance of the City Manager and unique/sensitive personal, yet City business-related, requests.

**R. ROBERT'S RULES**

Robert's Rules of Order Revised will be used as the guideline for conduct of Council meetings, except where these Rules specifically apply.

## **S. COMMISSIONS, COMMITTEES, ORGANIZATIONS & MEDIA**

1. Citizen Appointment and Removal.
  - a. The Mayor will appoint the City commissions and committees, with the consent of the Council. The Mayor may request assistance from Councilors in making recommendations.
  - b. Council members will encourage broad participation on City commissions and committees by generally limiting the number of terms a citizen may serve.
  - c. A citizen may not serve on more than two City commissions and committees simultaneously. Any citizen serving on two City commissions and committees may not be chairperson of both simultaneously. This limitation does not apply to service on the city budget committee.
  - d. With the consent of the Council, the Mayor may remove a citizen from a City committee prior to the expiration of the term of office.
2. Council Member Participation. Council members shall encourage City committee member participation.
3. Organizations, Media.
  - a. If the Mayor or a Council member represents the City before another governmental agency, a community organization, or the media, the Council member should first state the Council majority position. Personal opinions and comments should be expressed only if the Council member makes clear that it does not express the Council position.
  - b. Council members should obtain the appropriate permission before representing another Council member's view or position with the media.

## **T. MANAGER EVALUATION**

1. Criteria. The standards, criteria, and policy directives used in the evaluation of the Manager will be adopted at a regular Council meeting in accordance with state law.
2. Process.
  - a. The Manager will prepare a written assessment identifying major accomplishments.
  - b. Council members may make written comments in response to the Manager assessment.

- c. Evaluation sessions will be scheduled in accordance with the employee's decision on whether to hold the evaluation in open or executive session.
  - d. At evaluation sessions, Council summary comments and individual Council member comments will be made. The Manager will have an opportunity to respond to all comments. The effect of the evaluation on the Manager's employment contract will be discussed. Sufficient time will be allotted for the evaluation discussion with the Manager.
  - e. Council members will then complete their individual evaluations and convene to discuss overall evaluation of the Manager and reach a consensus.
  - f. Council will then reconvene with the Manager to review final performance evaluation and discuss compensation.
3. Contract. The City Attorney will prepare any employment contract amendments to the Manager's contract. Contracts normally will be approved as a consent agenda item at the next regular Council meeting.

#### **U. COUNCIL EXPENSES**

1. Reimbursement. Council will follow the same rules and procedures for reimbursement as city employees.
2. Budget. Council will review and discuss its proposed annual budget as coordinated by the Mayor and Council President and as presented by city staff during a public meeting.