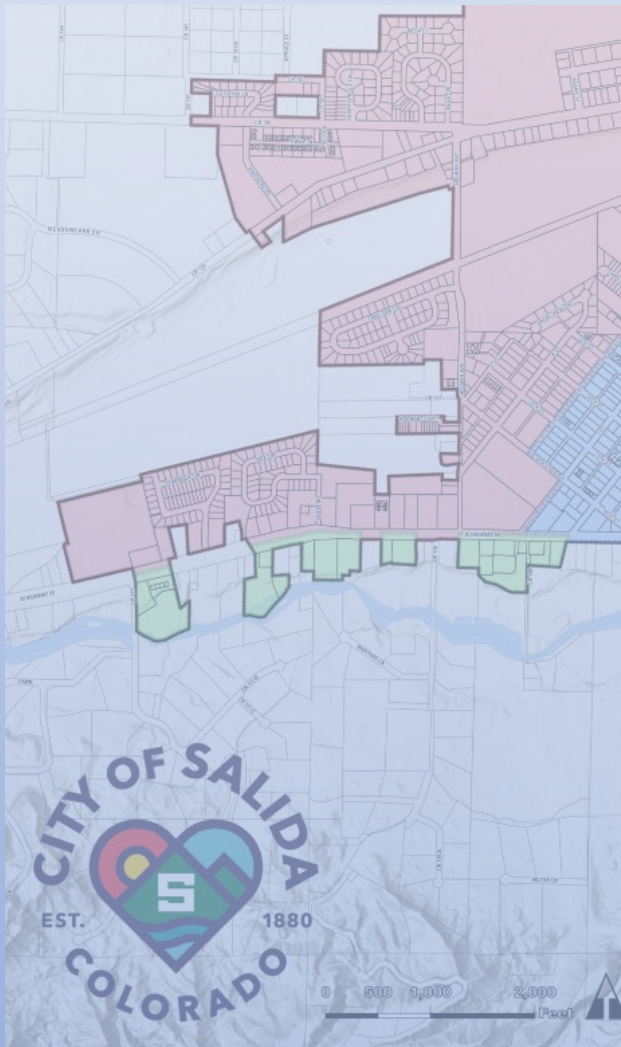




Salida City Council Handbook



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(Replaced previous "Council Meeting Rules of Procedure")

Chapter 1: Introduction of City Government

Mission Statement

It is the mission of the Salida City Council to guide the City through constructive, thoughtful and inclusive decision-making, preserving what makes Salida unique and focusing on the most positive outcomes.

Roles and Responsibilities of City Council

Council members are the leaders and policy makers of the City. The City Council has the authority to create and approve laws, regulations and policies that guide City Government. The City Council serves as the Local Liquor Licensing Authority, the Marijuana Licensing Authority and hears appeals of certain decisions made pursuant to the Municipal Code.

Council members also serve as City representatives on Boards of several external organizations such as, but not limited to, Chaffee Housing Authority and Harriet Alexander Field Airport Board.

The City Council appoints the City Administrator, City Clerk, City Attorney, Municipal Prosecutor and Municipal Judge. These appointed positions serve at the will of the City Council, and all have written agreements with the City specifying the parameters and expectations.

Role of the City Council as the Local Liquor & Marijuana Licensing Authority

Liquor & Marijuana Licenses in Colorado must be approved by both the State Liquor/Marijuana Authority and the local jurisdiction. The City Council acts as the Local Liquor Licensing Authority (LLA) and Marijuana Licensing Authority (MLA) for the City of Salida. All new liquor and marijuana licenses and transfers must be approved by the LLA or MLA following a public hearing. Liquor license/Marijuana license renewals are approved administratively by the City Administrator or City Clerk as long as no violations have occurred, and no complaints have been made against a liquor license/marijuana license holder. If complaints are filed, renewals must be considered by the LLA or MLA.

The LLA or MLA has the authority to hold hearings and impose sanctions against liquor license or marijuana license holders if an establishment violates state liquor or marijuana codes. Sanctions may include fines, suspension or in severe circumstances revocation of a liquor/marijuana license. Sanctions may only be imposed in conjunction with a legal proceeding called a show/cause hearing conducted by the LLA or MLA.

Role of City Council on Boards and Committees

City Council members are appointed to serve on various external task forces, boards and committees. Council members serve as voting members on several boards such as but not limited to the Chaffee Housing Authority and Harriet Alexander Field Airport Board and may be appointed to serve as ex-officio members of several boards such as the Sustainability Committee. Initial appointments are made soon after the Council's organizational meeting following elections. Council members who serve on external boards and committees are expected to report to the full Council regarding the activities of the board or committee on which they serve. These updates can occur verbally during the Council Reports section of the regular City Council meeting, or through written reports submitted to the City Clerk by noon on Thursday prior to a Council meeting for inclusion in the meeting packet. Council members may also be appointed to a committee for special projects or to review and make recommendations regarding service grant applications.

City Administrator

The City Administrator is the chief administrative officer of the City and is responsible for carrying out the Council's directives and administering the day-to-day operations of the City.

"The purpose of the office of the City Administrator is to provide the centralization of the administrative responsibilities of the City, with the City Administrator to be the administrative head of the City government under the direction and control of the Mayor and City Council and to be responsible to the Mayor and City Council for the efficient conduct of the office." (SMC 2-3-70(a))

"The City Administrator is the personnel director of the City and is charged with establishing appropriate personnel rules and regulations in compliance with state and federal laws, subject to the approval of the City Council. As the chief administrative officer, the City Administrator shall have the responsibility and authority to appoint, supervise and discharge all non-elected department heads and employees, excepting" appointed officials. (SMC 2-3-70(b))

City Attorney

The City Attorney is the legal advisor for the Council, Administrator and Department Heads. The general legal responsibilities of the City Attorney include:

- Provide legal assistance necessary for the formulation and implementation of legislative policies.
- Represent the City's interests, as determined by the City Council, in litigation, administrative hearings, negotiations and similar proceedings.
- Prepare ordinances, contracts and other legal documents.
- Keep the City Council and staff apprised of court rulings and legislation affecting the legal interests of the City.
- Attend City Council meetings, and where necessary, other board and commission's meetings

Chapter 2: Council and Staff Interaction

The governance of a City relies on the clear, honest, cooperative efforts of elected officials, who set policy, and City staff, who implement and administer the Council's policies. Therefore, every effort should be made to be civil, professional, and show mutual respect for the contributions made by each individual for the good of the community.

Communications through appropriate senior City staff

In general, the City Council should communicate all directives to the City Administrator and the City Administrator, in turn, directs staff. Questions and requests for information should be directed to the City Administrator, City Attorney, City Clerk, Municipal Judge, or their designees, including relevant Department Heads. When in doubt about what staff contact is appropriate, Councilmembers can ask the City Administrator or the affected appointed official for direction.

Requests for routine research by staff

To assure proper coordination and an efficient allocation of City resources, routine requests for research by City staff should be made to the City Administrator, who will determine what follow-up to which staff member is appropriate.

Policy or program modifications

Requests to research and analyze the viability of new or modified legislation, policy, or programming should be presented as a request at a Council meeting, where it shall be decided whether the request is something that merits an investment of staff time.

Political support from staff

Councilmembers must refrain from soliciting any type of political support (financial contributions, display of posters or lawn signs, name on support list, etc.) from City staff at work. Staff certainly may, as any other citizen, support political candidates away from the workplace, and on their own personal time. The City as an employer request that personal mail for employees, including campaign material, be sent to their home address.

Administrative functions

Councilmembers should avoid staff interactions that may be construed as trying to direct or shape staff operations.

Same information to all Councilmembers

Council should expect that staff will make every attempt to provide each individual member of Council with the same information for decision-making. (i.e., requests made of staff for research will be distributed to all; correspondence to one Councilmember on policy issues will be distributed to all).

Whistleblowers

In the event a Councilmember is approached by an employee with concerns that there is an illegal activity, including the alleged violation of City policy, the Councilmember shall direct that complaint to the Mayor. The Mayor will provide the information to the appropriate appointed official for investigation. If the complaint is made against an appointed official, then the Mayor shall determine what action should be taken. Where the Mayor desires legal advice he or she should use the City Attorney, or if the complaint is

against the City Attorney, then he or she has the authority to obtain outside legal counsel to assist with investigation and advice.

Personnel

Members of the Council shall not attempt to individually direct the City Administrator, the City Clerk, the City Attorney, the Municipal Judge or any City Staff on employment or personnel matters or decisions, awarding of contracts, selection of consultants, processing of development applications, or the granting of City licenses or permits.

Chapter 3: City Council Meeting Essentials

Regular Meetings of City Council

Regular meetings are typically conducted in Council Chambers at City Hall on the first and third Tuesday of the month, excluding holidays, and begin at 6:00 p.m., unless another day or time is set by prior approval of a majority of the City Council. Regular meetings shall adjourn no later than 9:00 p.m. unless a later time is agreed upon by a majority vote of the council members present at said meeting. In the event one or more agenda items have not been called prior to 9:00 p.m., and majority approval for extension of the meeting has not been obtained, such item or items shall be automatically continued to the next regular city council meeting.

Work Sessions of City Council

Work Sessions are typically held in Council Chambers in City Hall on the first and third Monday of the month, as needed, and usually begin at 6:00pm. The purpose of a Work Session is for general informal discussion, review and education of policy or operational topics. No formal action or decisions may be taken at a Work Session, and minutes are not taken. However, the council may direct appointed officials during Work Sessions to prepare information for a discussion and possible decision at a regular City Council meeting.

Special Meetings of City Council

The Mayor and any three (3) members of the City Council may call a special meeting by having written notice of such meeting personally served on all other Council members, or left at their usual place of residence. Except in cases of emergency, special meetings shall not be conducted except upon twenty-four-hours notice.

Special meetings may also be called by majority vote of the membership of the City Council taken and announced at a regular Council meeting. Notice of such meeting shall be given to any member of the City Council not in attendance.

Should the City Council convene for a special meeting pursuant to a request of an interested party for the purpose of accommodating time constraints of said interested party, the City Council may, in its discretion, assess fees for the special meeting against the interested party. The City Council may from time to time by resolution adopt a schedule of fees which may be assessed for special meetings. Said fees shall reasonably compensate the staff of the City and the City Attorney for time spent in preparation for attendance at special meetings.

Council Meeting Agenda and Packets

Council meeting agendas are set by the City Clerk by end of day on the Thursday before the Council meeting. The City Clerk manages the scheduling of agenda items and the publication and posting of agendas. Council meeting packets are assembled and the link is delivered via e-mail to council members by the Friday evening prior to regular Council meetings. City Council agendas and e-packets are posted on the City website by the Friday evening prior to regular meetings.

Packet information is meant to notify the public and assist Council members in preparing for the meetings. If you have questions regarding an agenda item, you may discuss it in advance with the City Administrator, or (if applicable) the City Attorney.

Public Hearings

Public hearings are held before the City Council to hear testimony from the public regarding specific

matters. Public hearings are held on all ordinances and on items such as the approval of certain quasi-judicial liquor licenses, marijuana licenses and land use decisions. During a public hearing certain procedural rules must be followed, which are discussed in greater detail within this Handbook.

Budget

The City's fiscal year begins on the first day of January and ends the last day of December. The purpose of the budget is to keep expenditures within the City's estimated revenues. The budget consists of two parts: a carefully prepared estimate of revenues and a tabulation of the estimated cost of each item in the budget. In the budget process, the Council essentially decides what the community needs and wants, what the community is willing and able to pay for, and what services the community can expect for its tax dollars. City staff prepares a proposed budget for City Council review and deliberation each year. The budget process usually begins in late June with work sessions to review draft budget documents and to discuss priorities, proposed projects, and the ongoing fiscal responsibilities of the City. Further drafts of the budget are reviewed until the budget is ready for final consideration and approval. The budget contains both an operational budget and a capital budget. The capital budget contains a list of all capital improvements which are proposed to be undertaken during the following fiscal year. By law, the budget must be approved no later than December 15 of each year.

Chapter 4: City Council Meeting Procedures

Public Hearings

Typical Order of a Public Hearing shall be as follows:

- Mayor/presiding officer opens the public hearing.
- City Staff summarizes their report; explains what is being requested; applies relevant Code provisions; makes recommendations; confirms proper notice of the public hearing.
- Applicant/Appellant presents its request and basis for same; possibly brings forward persons speaking in support of the application.
- Public Comment. Interested persons from the general public may speak, testify, address Council. (3 minute limit)
The Mayor/presiding officer will invite public in the following order:
In-person speakers, followed by
Online speakers (if applicable)
- Applicant may offer rebuttal, closing statement and may cross-examine any person who presented or testified.
- City Staff may offer rebuttal, closing statement and may cross-examine any person who presented or testified.
- Council may ask questions of any party or any person who as offered comment at the hearing.
- Mayor closes public hearing.
- Preliminary Council Discussion. Council reviews all testimony and evidence presented, applies appropriate Code provisions, and then objectively discusses and deliberates the requested application(s). The Council may ask additional questions of (or seek clarification or assistance from) the applicant, City Staff, Attorney, and anyone else present.
- Call for Motion. A council member proposes a final decision on the application, in the form of a motion.
- Council deliberates on the motion, and makes any applicable amendments to the motion.
- A roll call vote of all councilmembers occurs on the final version of the motion.

Quorum for City Council

Three (3) Council members and the Mayor, or four (4) Council members, shall constitute a quorum to do business at all meetings of the City Council.

Attendance

Attendance at meetings is crucial to allow the City to conduct business, therefore, Councilmembers are expected to attend all meetings within reason. In the event a member of Council is unable to attend a

meeting of the Council, such member is requested to make a reasonable effort to so advise the City Clerk, City Administrator, or Mayor in advance of the meeting. If a Councilmember does not provide prior notice of an absence, such absence will be declared unexcused. If a member accrues more than four (4) unexcused absences to regular City Council meetings within a twelve (12) month period, such member shall be removed, and their seat will be deemed vacant.

Order of Business on City Council Meeting Agendas

All business of the council shall be considered in the order of the agenda unless otherwise directed by motion adopted by the majority of the members present. Agenda order is currently, and should normally be:

- Call to Order
- Pledge of Allegiance
- Roll Call
- Civility Invocation
- Consent Agenda
 - Approval of Agenda
 - Approval of the Minutes
- Citizen Comment - three (3) minute time limit. (for items not on the agenda and/or agenda items that are not scheduled for public hearings)
- Public Hearings
- Unfinished Business/Action Items
- New Business/Action Items
- Reports (from Council members, appointed officials, departments, boards or commissions)
- Executive session, if applicable
- Adjournment

Consent Agenda

The Consent Agenda allows the Council to approve several items of routine business with one vote. All of the consent items shall be voted on as a group. If a Council Member requests discussion or requests that any item(s) be removed from the consent items, such item(s) shall be acted upon after consideration of the remaining consent items by the Council. The individual items will then be considered for adoption.

Consent Agenda items may include, but are not limited to:

- Approval of the Meeting Agenda;
- Approval of the Minutes of prior meetings;
- Approval of contracts or awards of bids previously presented in a work session and/or approved by City Council in the annual budget;
- Approval of Memoranda of Understanding with various entities;
- Approval of administrative, organizational or employment policies;
- Appointment of members to a board or commission.

The consent items will be listed as separate items on the Agenda for the Regular Meeting and we recommend the following explanation for the general public:

“All matters listed under Item X, Consent Agenda, are considered to be routine business matters by the Council and will be enacted with a single motion and a single vote by roll call. There will be no separate discussion of these items. If discussion is deemed necessary by any member of the Council, that item should be removed from the Consent Agenda and considered separately.”

Citizen Comment

During the Citizen Comment portion of the meeting, the following guidelines should be followed:

- All speakers must be recognized by the presiding official before speaking.
- Each speaker must provide their name before speaking.
- All remarks shall be addressed to the entire governing body.
- Questions posed to the relevant governing body or to the City Staff may not be directly addressed during public comment.
- Each speaker from the public will be allotted a maximum of three (3) minutes to provide their comments.
- Disorderly conduct, harassment, or obstruction of or interference with meetings by physical action, verbal utterance, nuisance, or any other means are prohibited.
- Members of the public may submit written comments at least 24 hours in advance of the scheduled meeting. Such written comments will be forwarded to the entire Council.
- Members of the public who are attending the meeting remotely will have the opportunity to speak, following the same guidelines listed above.

At the beginning of Citizen Comments, the Mayor should state, “This is an opportunity for the City Council to hear from our community. The public will be limited to three minutes each during citizen comments. The City council may not respond to your comment this evening, rather they may take your comments and suggestions under advisement and your questions will be directed to the appropriate department for follow-up. If necessary, the City Administrator will correct the public record.”

Citizen comment opportunities are different than formal public hearings. The public has the opportunity to comment during the citizen comment period at the beginning of every regular Council meeting. At this time people may speak for up to three minutes on any topic that is not on the agenda. The public comment period is a time for the Council to listen to the people. Council generally should not engage in two-way conversation at this time, nor should the Council feel compelled to respond to the comments. If Council chooses to discuss or take action on a subject brought up during Public Comment that discussion should be held at the end of the Council meeting under Council Reports.

Reports

City Council reports at the end of regular City Council meetings should aim to be approximately 3 to 5 minutes each.

Each department will provide a written report, monthly, which is included in the Council packet. The reports will highlight projects and programs from the previous month.

Each action item on the agenda will also contain a Council Action Form prepared by City Staff. This CAF will provide a background of the materials before the Council, any fiscal impact the decision will have, staffs' recommendations and the suggested motion.

Civility

It is the intention of the Salida City Council to promote civil communication by adopting guidelines for speaking to the public in the City Council Chambers, and by reading this Civility Invocation at the beginning of each regular City Council meeting.

Robert's Rules of Order

Regular City Council Meetings are conducted by the Mayor, according to "Bob's Rules of Order," the abbreviated Robert's Rules of Order (SMC 2-2-80).

Placement of a Work Session or Regular Meeting agenda item

The direction of either the Mayor or a minimum of two (2) City Councilmembers is required in order to place a topic or item on a work session or regular City Council meeting agenda. Such a request should be made publicly at regular meeting, if at all possible; however, that is not required if time or other circumstances do not allow.

Removal of a Work Session or Regular Meeting agenda item

An item previously added to either a work session or regular City Council meeting agenda may be removed from the agenda by a two-thirds (2/3) vote of the City Council.

Executive Sessions

The policy basis for executive sessions, which are not open to the public, is the recognition that the public interest can best be served if certain specified matters are discussed in private. The purpose of an executive session is to deliberate, not to make final decisions. No formal action shall be taken in an executive session to adopt a proposed policy, position, resolution, rule, regulation or ordinance.

The Colorado Revised Statutes permit Executive Sessions in the following limited situations:

1. *Real and Personal Property*: to discuss the purchase, acquisition, lease, transfer, or sale of property interests, so long as the executive session is not held to conceal an official's personal interest in the property. (CRS §24-6-402(4)(a))
2. *Attorney Conferences*: for the purpose of receiving legal advice on specific legal questions. (CRS §24-6-402(4)(b))
3. *Confidential Matters Under State or Federal Law*: for the purpose of discussing any topic required by state or federal law to be kept confidential. The governing body must announce the specific statutory citation or rule that requires the confidentiality of the matter to be discussed. (CRS §24-6-402(4)(c))
4. *Security Arrangements or Investigations*: for the purpose of discussing specialized details of security arrangements or investigations. (CRS §24-6-402(4)(d))
5. *Negotiations*: for the purpose of determining positions, strategy, or instructions to negotiators. (CRS §24-6-402(4)(e))
6. *Personnel Matters*: for the purpose of discussing general personnel matters. However, if the discussion involves a specific employee, that employee may request an open meeting. If the discussion involves more than one employee, the executive session may be held unless all

of the employees request an open meeting. 'Personnel Matters' does not include discussions of any member of a local public body, any elected official, the appointment of any person to fill a vacancy in a local public body or elected office, or discussion of personnel policies that do not require discussion of particular employees. (CRS §24-6-402(4)(f))

7. *Documents Protected Under Open Records Act*: for discussions that involve consideration of documents protected by the mandatory non-disclosure provision of the Open Records Act. Discussion of documents protected under the 'work product' or 'deliberative process' privileges in the Open Records Act must occur in an open meeting unless an independent basis for an executive session concerning such documents exists. (CRS §24-6-402(4)(g))

Executive Session Procedures:

- Executive sessions may only be conducted during a regular or special meeting of the City Council.
- The City must first announce the topic of discussion to the public, including the specific citation to the Open Meetings Law (CRS section) that authorizes consideration of the announced topic in executive session, as well as "identification of the particular matter to be discussed in as much detail as possible without compromising the purpose for which the executive session is authorized."
- A City Councilmember must make an official motion to go into Executive Session (i.e. "I move to go into Executive Session for the purpose of a conference with the City Attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b))."
- Two-thirds of the quorum present must vote affirmatively on the motion before the governing body can close the meeting to the public.
- Discussions that occur in Executive Session must be electronically recorded. The recordings must be retained for at least ninety (90) days after the date of the session. If, in the opinion of the City Attorney present, all or a portion of the discussion constitutes a privileged attorney-client communication, no record or electronic recording is required to be kept of that part of the discussion.

Chapter 5: Conflicts of Interest

Common Good

- City Council Members shall work for the common good of the people of the City and not for any private or personal interest; and
- City Council Members will ensure fair and equal treatment of all persons, claims, and transactions coming before the City Council.

Definitions

For purposes of this Section, these terms shall have the following assigned meaning:

- *Financial Interest* means any interest equated with money or its equivalent.
- *Financial Interest* shall not include:
 - The interest that a City Council Member or relative has as an employee of a business, or as a holder of an ownership interest in such business, in a decision of any public body when the decision financially benefits or otherwise affects such business but entails no foreseeable, measurable financial benefit to the officer, employee, or relative;
 - The interest that a City Council Member or relative has as a non-salaried officer or member of a nonprofit corporation or association or of an educational, religious, charitable, fraternal, or civic organization in the holdings of such corporation, association, or organization;
 - The interest that a City Council Member or relative has as a recipient of public services when such services are generally provided by the City on the same terms and conditions to all similarly situated citizens regardless of whether such recipient is a City Council Member or relative;
 - The interest that a City Council Member or relative has as a recipient of a commercially reasonable loan made in the ordinary course of business by a lawfully established financial or lending institution;
 - The interest that a City Council Member or relative has as a shareholder in a mutual or common investment fund in the holdings of such fund unless the shareholder actively participates in the management of such fund;
 - The interest that a City Council Member or relative has as a policyholder in an insurance company, a depositor in a duly established savings association or bank, or a similar interest-holder unless the discretionary act of such person, as a City Council Member, could immediately, definitely, and measurably affect the value of such policy, deposit, or similar interest;
 - The interest that a City Council Member or relative has as an owner of government-issued securities unless the discretionary act of such owner, as a City Council Member, could immediately, definitely, and measurably affect the value of such securities; or
 - The interest that a City Council Member has in the compensation received from the City for services provided to the City as a City Council Member.
- *Personal Interest* means any interest (other than a financial interest) by reason of which a City Council Member, or a relative of such City Council Member, would, in the judgment of a

reasonably prudent person, realize or experience some direct and substantial benefit or detriment different in kind from that experienced by the general public.

- Examples of personal interest include an increase in the value of a real property interest or advancement of an employment opportunity.
- *Personal Interest* shall not include:
 - The interest that a City Council Member or relative has as a member of a board, commission, committee, or authority of another governmental entity or of a nonprofit corporation or association or of an educational, religious, charitable, fraternal, or civic organization;
 - The interest that a City Council Member or relative has in the receipt of public services when such services are generally provided by the City on the same terms and conditions to all similarly situated citizens; or
 - The interest that a City Council Member has in the compensation, benefits, or terms and conditions of his or her service to the City.

Disclosure and Abstention Procedures

Disclosure: A City Council Member who has a personal or private interest in any matter proposed or pending before the Council shall disclose the interest to the other members prior to action on the matter by the Council.

Abstention: A City Council Member shall be excused from voting on any matter on which he or she has a conflict of interest.

- The City Council Member who has the conflict of interest shall refrain from attempting to influence the other members of the Council who are or will be voting on the matter.
- The City Council Member excused from voting because of a conflict of interest shall leave the meeting during the deliberations and the vote on the matter.

Privileges, Exemptions, and Services

A City Council Member shall not use his or her official position to secure a special privilege, exemption or service for himself or herself or for others, nor shall any member of the Council seek or grant any special consideration, treatment, or advantage to or for any citizen beyond that which is generally available to every other citizen.

This provision shall not be interpreted to prohibit or hinder a member from presenting citizen concerns to the Council or to City Staff and requesting a response to the citizen concern.

Personal Gain and Use of Public Resources

A City Council Member shall not take any special advantage of services or opportunities for personal gain, by virtue of his or her public office, that are not available to the public in general. City Council Members shall refrain from accepting any benefit or promises of future benefits which compromises their independence of judgment or action or gives the appearance of such compromise.

A City Council Member shall not use public resources not available to the public in general, such as City Staff time, equipment, supplies or facilities, for private gain or personal purposes, except for privileges generally available or granted to employees of the City.

Appearance of Impropriety

An appearance of impropriety is created when a City Council Member takes or may take a direct official action that, although not constituting a conflict of interest, will create a reasonable perception that his or her ability to carry out his or her official duties with integrity, impartiality, and competency is impaired.

As non-exhaustive examples only, appearances of impropriety may be created in the following circumstances:

- When the direct official action involves or will involve a close friend of the City Council Member;
- When the City Council Member is a recipient of an official notice of a quasi-judicial hearing due to the City Council Member's ownership or lease of property to be affected by such hearing; or
- When the City Council Member will be called upon to consider taking official action of a quasi-judicial nature and the City Council Member has previously and publicly expressed an opinion, position, or bias regarding the matter.

A City Council Member who determines that that his or her actions may cause an appearance of impropriety may disclose the appearance of impropriety and abstain from voting as provided in the *Disclosure and Abstention Procedure* section above.

Employment

It is in the interest of the City to hire the most qualified people to work in the City.

Due to the potential conflict of interest that exists when a Council member applies for an open position with the City, any councilmember that intends to apply for an open position with the City must resign their council seat at the next regular meeting after an application is submitted.

If an employee is elected to City Council, they must resign their position with the City at the first regular meeting after they take office.

Chapter 6: Open Meetings Law

(Colorado Revised Statutes 24-6-401, et seq.)

Meeting means: any kind of gathering, convened to discuss public business, in person, by telephone, electronically, or by other means of communication. However, Meeting does not include electronic communications that do not relate to the merits or substance of pending legislation or other public business. Examples include communications regarding scheduling and availability, forwarding information, responding to a public inquiry, or posing a question for later discussion by the public body.

Local public body means: any board, committee, commission, authority, or other advisory, policy-making, rule-making, or formally constituted body of the City and any public or private entity to which the City, or an official thereof, has delegated a governmental decision-making function but does not include persons on the administrative staff of the local public body.

- Note the exclusion in the foregoing definition for “administrative staff.”

What meetings are required to be “open to the public” at all times?

- All meetings of a quorum or three or more members of any local public body, whichever is fewer, at which any public business is discussed or at which any formal action may be taken.

Notice: Any meetings at which the adoption of any proposed policy, position, resolution, rule, regulation, or formal action occurs or at which a majority or quorum of the body is in attendance, or is expected to be in attendance, shall be held only after full and timely notice to the public. In addition to any other means of full and timely notice, a local public body shall be deemed to have given full and timely notice if the notice of the meeting is posted in a designated public place within the boundaries of the local public body no less than 24 hours prior to the holding of the meeting. The public place or places for posting such notice shall be designated annually at the local public body's first regular meeting of each calendar year. The posting shall include specific agenda information where possible.

- OML does not define “full and timely notice,” but provides an example of notice by posting. The General Assembly recently authorized this posting to be on the public entity’s website.

Chance meetings and social gatherings: The requirements of the OML do “not apply to any chance meeting or social gathering at which discussion of public business is not the central purpose.”

Open Meetings Law may apply to the following discussions:

- a. Emails
- b. GoToWebinar chat box
- c. Text messages
- i. Messaging during a meeting: councilmember to councilmember could violation OML; or councilmember to an applicant or the public may violate other quasi-judicial provisions.

Chapter 7: Legislative v. Quasi-Judicial Proceedings

Applying constitutional due process (fair hearing) requirements, state and federal courts have characterized certain governmental entity decisions as legislative, and others as quasi-judicial. It is important to understand the differences between the two because the courts require that special procedures be followed for quasi-judicial matters.

Legislative Matters

Legislative matters are matters of general concern or with applicability throughout a municipality. In the legislative role, the City Council reviews, recommends, creates and amends regulations on a citywide basis. Legislative matters are frequently referred to as “policy making.”

Examples: Resolutions or Ordinances with broad application; amending Municipal Code.

The City Council may freely discuss legislative matters with the general public.

Quasi-Judicial Matters

Quasi-Judicial matters have a narrower application. Unlike legislative matters, the Council does not *set* new policy in a quasi-judicial proceeding, but rather *applies* policy established in existing law to specific facts gathered at the hearing to arrive at its decision on the case presented.

Examples: special use permits, zoning variances, subdivision plat approvals, liquor license issuance, nuisance abatement.

In quasi-judicial hearings, the City Council is acting in a manner similar to a judge, and must make an objective decision that is based upon the evidence presented at the hearing and the current law and applicable legal standard.

Because these proceedings impact the property rights of one individual, entity or small group of individuals, fairness and due process must be ensured. Everyone with an interest in the case, as well as all members of the decision-making body, must hear the same evidence, at the same time, from the same sources. The applicant, appellant or property owner deserves the opportunity for a fair, impartial hearing before unbiased, impartial decision makers, each of whom have had the benefit of the same input and testimony. During quasi-judicial hearings, Council will not engage in reflective listening.

Council’s Impartiality in a Quasi-Judicial Proceeding may be affected by:

(1) **Pre-judgment or bias.** An individual Councilmember’s desires, personal preferences or prejudices must not be a factor for consideration, or enter into their decision-making. A councilmember must not have their mind made up before the hearing, and must remove themselves from the process if they have advocated one way or the other on a quasi-judicial matter. Each member participating in the hearing must have the ability to decide the case fairly, impartially and based solely on the evidence and testimony presented at the hearing.

(2) **Conflicts of Interest.** Described earlier in Chapter 5 of this Handbook.

- (3) **Ex-Parte Communications.** Ex-Parte communication refers to information received “outside of the record,” whether verbal, written, electronic, or graphic. Ex-parte communications are also defined as communication between a councilmember and one party, outside the presence of the other parties to the case, or other affected individuals.

Because of the legal constraints of this process, councilmembers may not discuss quasi-judicial issues outside of a hearing. Council must refrain from listening to opinions outside of the public hearing, and should not form opinions until the hearing. Council also should not research the issue outside of the hearing. Should a member of the public, or the applicant, attempt to share opinions or discuss the issue, Council must explain that because it is a quasi-judicial matter, they cannot not engage in ex-parte communication. Councilmembers may direct the individual to provide written comments to City Staff, which will be included in the public record, and considered by all Council at the proper time.

Courts generally hold that such communications are improper and may provide legal grounds for overturning a Council’s decision. These rules promote impartial decisions by ensuring disclosure of all evidence and arguments presented to the Council in its deliberation and decision. These rules also gives everyone involved a fair chance to respond to all information that may affect the decision. If any Councilmember believes that their ability to participate in the hearing fairly and impartially has been compromised, they must cure the issue by disclosing the issue on the record or recusing themselves from the hearing.

Chapter 8: City of Salida Remote Participation Policy

(Adopted via Resolution 2024-33)

The preference and expectation of all Councilmembers is to attend regular and special Council meetings in-person, in City Hall, whenever possible, in recognition of the efficiency and effectiveness of in-person participation when conducting the public business of the City of Salida. However, there may be occasional times when in-person attendance is not possible. The City finds that remote attendance by Councilmembers is preferable to not permitting participation or delaying the conduct of public business. Members of Council may therefore participate remotely in council meetings subject to the following rules and procedure.

This Policy shall also apply to all quasi-judicial proceedings in front of any City board or commission. When considering a quasi-judicial matter, City boards and commissions, and its members, shall follow this Policy in the same manner intended for Councilmembers.

This Policy applies when a local disaster emergency is not in effect.

When an emergency has been declared, the City's "Electronic Participation Policy for City Council Meetings and Meetings of City Boards and Commissions During a Local Disaster Emergency" adopted by City Council via Resolution 2020-42 shall apply.

"Remote Attendance" means participation by video or audio means, such as Zoom, GoToMeeting, Webex, Microsoft Teams or similar platform approved by the City, which is clear, uninterrupted and allows two-way communication for the participating Councilmember.

Circumstances permitting remote participation

Councilmembers may participate in a meeting by remote attendance when travelling out-of-town, when ill, when a family or personal emergency arises, or when unforeseen circumstances do not allow in-person attendance. Councilmembers who are ill are encouraged and expected to participate by remote attendance. Councilmembers may participate remotely no more than four (4) times in a twelve (12) month period for Regular City Council meetings. This provision does not apply to Work Sessions. If a Councilmember violates this provision, they shall be removed, and their seat will be deemed vacant.

Meeting requirements concerning remote participation

Council may permit remote participation in a meeting, provided that all of following standards are met:

1. All members of the City Council can hear one another or otherwise communicate with one another and can hear or read all discussion and testimony in a manner designed to provide maximum notice and participation.
2. Councilmembers and members of the public present at the meeting location can hear or read all discussion, testimony and votes.
3. At least one member of the City Council is present at the meeting location.
4. All votes are conducted by roll call.

Arranging for remote participation

To arrange to participate remotely, a Councilmember shall contact the City Clerk in writing, as far in advance of the meeting as possible, and include the circumstance in which the Councilmember is making the request. Upon receipt of such written request, the City shall use its best efforts to provide the technical means necessary to fulfill the request from City Hall; provided, however, that it shall be incumbent upon the Councilmember who desires to participate by remote attendance to provide the technical means necessary to facilitate remote attendance from their location. Such Councilmembers are expected to be situated in a stationary location with adequate internet service with video camera on and presenting in a professional manner similar to in-person Council meeting attendance.

Public Participation

For meetings where it is practical for City Council to utilize an electronic communication platform, members of the public may participate in such meetings and make comments at such times as are designated by the Mayor. The City may impose requirements on public participation by electronic means such as requiring a member of the public to send an email to the Clerk prior to the meeting if they desire to present on an item not on the agenda or requiring a member of the public to give notice to City staff in advance or during the meeting of their desire to comment on a specific agenda item.

A Councilmember participating through remote attendance:

- shall be entitled to participate in all Council matters in the same capacity as a Councilmember in physical attendance, including participation quasi-judicial matters and executive sessions;
- shall be counted for purposes of establishing a quorum;
- shall have the opportunity to express comments during the meeting and participate in the same capacity as those members physically present, subject to all general meeting guidelines and adopted procedures;
- shall be heard, considered, and counted as to any vote taken;
- shall be called during any vote taken and shall have such Councilmember's vote counted and recorded by the City Clerk and placed in that meeting's minutes; and,
- may leave a meeting and return as in the case of any member upon announcement of such leaving and returning.

In the event that City Council holds an executive session, participants shall be authorized to attend remotely. A Councilmember participating in an executive session remotely shall: (a) have a secure telephone or electronic connection, and (b) certify that they are the only person in the room and that no other person has access to the executive session. Any executive session conducted under this Policy shall be recorded electronically as provided for by statute.

Presiding Officer

The Mayor, Mayor Pro Tem or other designated person who is presiding over the meeting shall have the discretion to mute any Councilmember who is participating through remote attendance when distracting and extraneous noise is occurring through the remote attendance. The officer who is presiding over the meeting may delegate the ability to mute Councilmembers to the meeting host who controls the meeting platform. The presiding officer shall use best efforts to recognize and provide opportunity for Councilmembers who are participating via remote attendance the ability to contribute to the discussion and express comments. The presiding officer during the meeting shall designate the individual who councilmembers should contact during the meeting in the event of technical difficulties

or in connection with other matters related to items not appearing on the agenda for the meeting in which the Councilmember is participating remotely.

Reasonable Accommodations

The City may provide reasonable accommodation and waive or modify provisions of this Policy for the benefit of members of the City Council, commission, board or the public with a disability.

Chapter 9: Travel and Mail

Travel

The City will pay for ordinary and necessary expenses incurred by City Council members which are directly related to City business. Actual or per diem travel expenses should be itemized on a Travel Expense Form (available in the Finance Office) and submitted along with necessary documentation. This includes mileage when you need to travel using your personal vehicle. Efforts should be made to travel with staff who are able to drive City-owned vehicles.

The City Administrator's office can assist you in registering for classes, conferences and booking travel arrangements. Council members should always use discretion in their use of City-related business travel. Travel expenses incurred by public officials are typically subject to a high level of public scrutiny.

Council Mail

Correspondence/mail addressed to the City Council is placed in the Council mailboxes, located in the mail room, accessible through the Finance Office. Please check your mailbox when you visit City Hall. E-mail correspondence addressed to City Council is forwarded to all Council members and the Clerk's Office retains a copy for the public record.

Chapter 10: Additional Resources

Colorado Municipal League – www.cml.org

The Colorado Municipal League (CML) is a non-profit organization that has served and represented Colorado cities and towns since 1923. In 2021, 270 of Colorado's 271 municipalities are members of CML. CML provides advocacy, information and training to its members. CML's mission is twofold: to represent cities and towns collectively in matters before the state and federal government, and to provide a wide range of information services to assist municipal officials in managing their government. The Town of Crested Butte is a member of CML and the organization sends an informational welcome packet to newly elected council members. Council members also receive newsletters from CML.

Colorado Association of Ski Towns – www.coskitowns.com

The Colorado Association of Ski Towns is an organization of 26 municipalities whose economies are largely dependent upon the ski industry and tourism. Members include the mayors, managers and council members of these resort towns. CAST has more than a dozen Associate Members that include Colorado counties as well as out-of-state towns and counties.

The Association was formed in part to recognize that resort communities face unique challenges in providing municipal services to residents and visitors.

Member municipalities share the benefits of diverse knowledge, experience and leadership through meetings, conferences, surveys and other informational venues, as decided by the members.

CAST members use the power of the coalition to seek support for legislation that will benefit and sustain the mountain communities. CAST supports actions that keep our communities livable, protect our pristine environment, and promote affordable housing, multi modal transportation, climate action and sustainable tourism. CAST's goal is to ensure an exceptional quality of life for citizens and a positive experience for visitors.

Colorado Communities for Climate Action – www.cc4ca.org

Colorado Communities for Climate Action is a coalition of 42 local governments across the state advocating for stronger state and federal climate policy. CC4CA is governed by a Board of Directors representing all of the member communities.

Colorado Intergovernmental Risk Sharing Association – www.cirsa.org

The Colorado Intergovernmental Risk Sharing Agency (CIRSA) was formed by Colorado municipalities, for Colorado municipalities. More than 285 communities and public entities are members, because the advantages of working collectively as a community far outweigh what commercial providers offer.