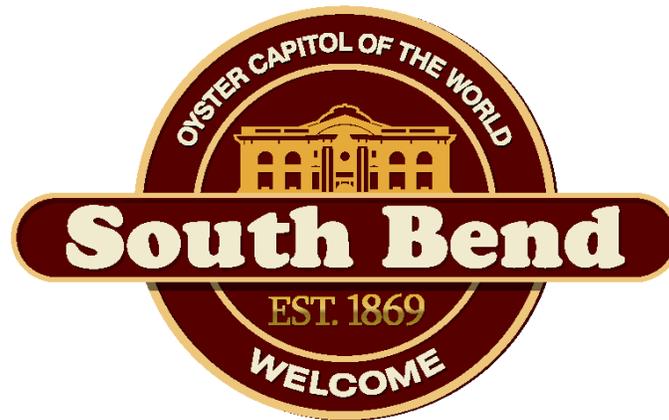


South Bend City Council



Rules and Procedures Manual

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CHAPTER 1

PURPOSE AND SCOPE

1.1 INTRODUCTION

It is up to every City Council to establish rules for the conduct of their meetings. With new personnel and increased public involvement, the Council has determined that adopting these Council Rules and Procedures will make Council meetings more efficient and professional and will instill the public's confidence in City government. In addition the City of South Bend's code of ethics is to provide a clear statement of the minimum standards of ethical conduct expected of city officials and local responsibility for compliance with adopted standards. The City of South Bend code of ethics follows the provisions of state statute found in Chapter 42.23 RCW governing the ethical conduct expected of local government officials statewide.

CHAPTER 2

GENERAL RULES

2.1 Attendance, Excused Absences

Pursuant to RCW 35A.12.060, a Council member shall forfeit his/her office upon failing to attend three (3) consecutive regular meeting of the Council without being excused by the Council. To be excused, the member shall contact the Mayor before the meeting and give the reason for his/her inability to attend the meeting. If the member cannot contact the Mayor, the member shall contact the Clerk/Treasurer, who shall convey the message to the Mayor. The Mayor shall inform the Council of the member's absence and reason therefore. The Clerk/Treasurer will note in the minutes the member's absence.

2.2 Journal of Proceeding

A journal of all proceedings (minutes) of the Council shall be kept by the Clerk/Treasurer and shall be entered in a book constituting the official record of the Council. The meetings shall be audio taped unless the majority of the City Council deems it unnecessary.

2.3 Decorum

All members shall preserve order, decency and decorum at all times while the Council is in session. No member shall, by conversation or otherwise, delay or interrupt the proceedings or the peace of the Council, nor disturb any member who is speaking. No member shall refuse to obey an order of the Mayor. Members shall confine their remarks to one subject under consideration or to be considered. Discussion shall relate to the subject under consideration and shall be relevant and pertinent thereto so as to provide for the expeditious disposition and resolution of the City's business. No member shall use any impertinent, degrading or slanderous language as to any other member, staff, or public. There shall be no lectures, speeches or grandstanding. For purposes of this section, "member" includes the Mayor.

2.4 City Staff Decorum

City staff and employees shall observe the same rules of order and decorum as are applicable to the Council.

2.5 Audio/Video Area

All audio or video taping by the public and/or press shall be done from the back of the Council room.

2.6 Meeting to be Public

All official meetings of the Council shall be open to the public with the exception of executive sessions for certain limited topics (as defined in RCW Chapter 42.30). The journal of proceedings (minute book) shall be open to public inspection.

2.7 Council Letter Writing

Any time Councilmembers write individual letters or contact the news media, they shall include a disclaimer that they are speaking only for themselves and not speaking for any other member or the Council as a whole.

2.8 Violation of City Ordinances

Members concerned with a violation of a city ordinance shall contact the Mayor or appropriate department head and explain the violation and its location. Members shall not act as an enforcement agent.

2.9 Preserving the Attorney Client Privilege

No Council member shall make any disclosures or release any information which would result in the waiver of the attorney/client privilege without first obtaining the approval of a majority of the Council in open session. Such a request for disclosure shall first be raised during an executive session for discussion prior to a vote in open session.

2.10 Good Faith Cooperation with Insurance Carrier

All Council members shall cooperate in good faith with any insurance carrier or attorney representing the City in connection with a defense provided by an insurance carrier.

2.11 Ultra Vires Actions

Council members shall not act *ultra vires*, or outside the scope of their authority and duties as Council members.

2.12 Campaign Activities

Officials may participate in the political process only on their own time and only outside of the workplace by assisting a campaign for the elections of any person to any office, or for the promotion of or the opposition to any ballot proposition

Officials shall not use or authorize the use of the facilities or resources of the city for the purpose of assisting a campaign for the election of any person to any office, or for the promotion or opposition to any ballot proposition, except as may be authorized by law under the provisions of Chapter 42.17.130 RCW.

2.13 Solicitations of Charitable Contributions

No official may make direct personal solicitations for charitable contributions from city employees.

2.14 Gifts and Favors

Officials shall not take any special advantage of services or opportunities for personal gain, by virtue of their public office, which are not available to the public in general. They may not solicit or receive anything of monetary value from any person or entity where the thing of monetary value has been solicited, or received or given or, to a reasonable person, would appear to have been solicited, received or given with intent to give or obtain special consideration or influence as to any action by the official in his or her official capacity; provided, that nothing shall prohibit campaign contributions which are solicited or received and reported in accordance with applicable law.

2.15 Confidential Information

Officials shall not disclose or use any confidential information gained by reason of their official position for other than a city purpose. "Confidential information" means (1) specific information, rather than generalized knowledge, that is not available to a person who files a public records request, and (2) information made confidential by law.

2.16 Open Public Meeting Act Compliance

Officials should not comment on city social media sites. Doing so may constitute a meeting under the Open Public Meeting Act

2.17 Council Training

Councilors are expected to participate in training offered by individuals, agencies, entities and organizations including but not limited to the Association of Washington Cities and the State of

Washington, so as to afford the Councilors the opportunity to better understand their roles as council members.

2.18 Participation in Committees, Agencies and Organizations

To better represent the interest of the City of South Bend, Councilors are encouraged to participate in assignments to local, regional, state and national committees, agencies and organizations.

2.19 Internet & Electronic Resources/Equipment Use

All letters, memoranda, and interactive computer communication involving Councilors, the subject of which relates to the conduct of government or the performance of any governmental function, with exceptions stated by the Public Records Act (RCW 42.56), are public records. This includes text messages and notes generated during council meetings.

Electronic Communications.

1. Informal messages with no retention value and that do not relate to the functional responsibility of the recipient or sender as a public official, such as meeting notices, reminders, telephone messages and informal notes, do not constitute a public record. Users should delete these messages once their administrative purpose is served.
2. All other messages that relate to the functional responsibility of the recipient or sender as a public official constitute a public record. Such records are subject to public inspection and copying.
3. Electronic communications that are intended to be shared among a quorum of the City Council whether concurrently or serially, must be considered in light of the Open Public Meetings Act, if applicable. If the intended purpose of the electronic communication is to have a discussion that should be held at an open meeting, the electronic discussion shall not occur. Further, the use of electronic communication to form a collective decision of the Council shall not occur.
4. Electronic communication should be used cautiously when seeking legal advice or to discuss matters of pending litigation or other confidential City business. In general, electronic communication is discoverable in litigation, and even deleted electronic communication is not necessarily removed from the system. Confidential electronic communications should not be shared with individuals other than the intended recipients, or the attorney-client privilege protecting the document from disclosure may be waived.
5. Electronic communication between Councilors and between Councilors and staff shall not be transmitted to the public or news media without the filing of a public disclosure request with the Clerk/Treasurer.
6. As a cautionary note, if an elected public official uses his or her personal home computer to send electronic communications dealing with City business, the electronic communications and electronic records may be subject to discovery demands and public disclosure requests. That possibility amplifies the need for caution in how one uses electronic communication for City business.

2.20 Council Relations with Staff

There will be mutual courtesy and respect from both City staff and Councilmembers toward each other and of their respective roles and responsibilities.

City staff will acknowledge the Council as policy makers, and the Councilmembers will acknowledge City staff as administering the Council's policies.

It is the intent of Council that all pertinent information asked for by individual Council members shall be made available to the full Council.

Individual Councilmembers shall not attempt to coerce or influence City staff in the selection of personnel, the awarding of contracts, the selection of consultants, the processing of development applications or the granting of City licenses or permits. Councilmembers may, at the request of the Mayor, participate in discussions and decisions related to these matters.

Other than through legislative action taken by the Council as a whole, individual Councilmembers shall not interfere with the operating rules and practices of any City department.

No individual Councilmember shall direct the Mayor to initiate any action or prepare any report that is significant in nature, or initiate any project or study without the consent of a majority of the Council. This provision, however, does not prohibit individual Councilmembers from discussing issues with the Mayor or making individual requests or suggestions to the Mayor. The Mayor shall endeavor to advise and update the Councilmember(s) on the status or follow-up of such issues.

All councilmember requests for information, other than requests for legal advice from the City Attorney's Office, shall be directed through the Mayor in order to assign the task to the proper staff. The Deputy Mayor may work with the Mayor's designated staff to prepare Study Session agendas and facilitate Study Session work.

Any written communication with staff shall also include the Mayor as a recipient.

CHAPTER 3

PRESIDING OFFICER

3.1 Mayor

The Mayor shall preside at meetings of the Council, and be recognized as the head of the City for all ceremonial purposes. In case of the Mayor's absence or temporary disability, the Mayor Pro Tempore shall act as Mayor during the continuance of the absence. In case of the absence or temporary disability of the Mayor or Mayor Pro Tempore, the members of the Council shall select a member to act as Mayor during the continuance of the absences. The Mayor or Mayor Pro Tempore may be referred to as the "Chair" or "Presiding Officer" from time-to-time in these Rules of Procedure.

3.2 Call to Order

The meetings of the Council shall be called to order by the Mayor or, in his absence, by the Mayor Pro Tempore. In the absence of both the Mayor and Mayor Pro Tempore, the meeting shall be called to order by the City Supervisor or Clerk/Treasurer for the election of a temporary Chair.

3.3 Preservation of Order

The Mayor shall preserve order and decorum; prevent attacks on personalities or the impugning of member's or public motives and confine members or public in debate to the question under discussion.

3.4 Enforcement of Order

The Chief of Police (or designee) acts as the sergeant-at-arms. It shall be the duty of the sergeant-at-arms to carry out all instructions of the Mayor to preserve the peace and maintain order and decorum at council meetings. A portion or all of the public may be removed from a council meeting if willful disruption makes conducting the meeting unfeasible. Upon instructions of the Mayor, it shall be the duty of the sergeant-at-arms to place any person who violates the order and decorum of the meeting under arrest and cause him or her to be prosecuted in accordance with law.

3.5 Points of Order

The Mayor shall determine all points of order, subject to the right of any member to appeal to the Council. If any appeal is taken, the question shall be "Shall the decision of the Mayor be sustained?"

3.6 Questions to be Stated

The Mayor shall state all question submitted for a vote and announce the results. A roll call shall be taken upon request of any member.

3.7 Mayor- Voting Powers

The Mayor may vote to break a tie vote of the Council except with respect to the passage of any ordinance, grant, revocation of a franchise or license, or any resolution for the payment of money (RCW 35A.12.100 as now enacted or hereafter amended). The Mayor may veto an ordinance, but the Mayor's veto can be overruled by a majority plus one of the entire council membership (RCW 35A.12.130 as now enacted or hereafter amended).

CHAPTER 4

COUNCIL MEETINGS

4.1 Quorum

Three Councilmembers shall be in attendance to constitute a quorum and be necessary for the transaction of business. If a quorum is not present, those in attendance will be named and they shall adjourn to a later time, but no adjournment shall be for a longer period than until the next regular meeting.

4.2 Meetings

The Clerk/Treasurer shall arrange a list of proposed matters according to the order of business and prepare an agenda for the Council. After the proposed agenda has been approved by the Mayor, a copy of the agenda and supporting materials shall be prepared for Council members, the City Supervisor, and the press on or before noon the Friday before the regular Council meeting. The Mayor shall have the option of deleting any item from the agenda until the next regular Council meeting when the full Council shall vote on whether to place the item on the current agenda or schedule it for a subsequent Council meeting. The Mayor, any Council member, or Department Head may introduce a new item to the agenda.

The Consent Agenda will contain payroll and claims. Any item on the Consent Agenda may be removed at the request of any Council member followed by a majority vote of the full council.

4.3 Special Meetings

Special meetings may be called by the Mayor or by the written request of three Councilors. Notice of a special meeting will be made by the Clerk/Treasurer by email notice to each member of the council, notice of the special meeting on the city website and a posting on the front door of City Hall. The notice of the special meeting must be at least 24 hours prior to the time of such meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be conducted.

4.4 Study Sessions and Workshops

The Council may meet informally in study sessions and workshops (open to the public), at the call of the Mayor or of any three or more members of the Council, to review forthcoming programs of the city, receive progress reports on current programs or projects, receive other similar information from city department heads or conduct procedures workshops, provided that all discussions and conclusions thereon shall be informal and do not constitute official actions of the Council.

4.5 Executive Sessions

If the Council convenes an executive session to discuss what is permitted by law, there is no valid reason to disclose publicly what was discussed and reviewed privately. Everything, which is discussed during an executive session, and all written materials that are reviewed during an executive session, shall be considered confidential and no Council member shall publicly disclose any such information.

All Executive sessions are done in accordance with RCW 42.30.080

4.6 Right of Floor

Any members desiring to speak shall first be recognized by the Mayor.

4.7 Motions

Members who wish to make a motion must first be recognized by the Mayor. After the member makes a motion (and after the motion is seconded if required), the Mayor must then restate it or rule it out of order, then call for discussion. Most motions require a second, although there are some exceptions: nominations, points of order, requests to remove an item from the consent agenda, and motions to table.

A motion to table does not require a second and is not debatable. The Mayor will state the motion and call for the vote.

Motions for reconsideration must be made by a member from the prevailing side; any member may make the second. The following rules apply to motions for reconsideration: (a) Motion must be in a timely manner but in no instance more than six (6) months after the original action. (b) When (6) months have elapsed, any member may bring the item before the Council. (c) No motion to reconsider an adopted quasi-judicial written decision shall be entertained after the close of the meeting at which the written findings were adopted.

4.8 Voting/Conflict of Interest

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

1. Unless otherwise provided for by statute, ordinance, or resolution, all votes shall be taken by voice, except at the request of any Council member, the Clerk/Treasurer shall take a roll call vote. The Mayor shall determine the order of the roll call vote.
2. The passage of any ordinance, grant or revocation of franchise, any motion or resolution for the payment of money, and any approval of warrants shall require a majority vote of the whole Council.
3. The passage of any public emergency ordinance (an ordinance that takes effect immediately), expenditures for any calamity or violence of nature or riot or insurrection or war, and provisions for a lesser emergency, such as budget amendment, shall require a majority vote of Council.
4. Council members shall vote on all matters before the Council unless a statutory conflict of interest exists. A conflict of interest occurs when an elected official is no longer able to remain impartial or objective between the interest of the City of South Bend and the interest of oneself. The citizens have a right to expect independence and fairness and expect you to act for their benefit and not favor a few individuals. A situation can sometimes make it appear that a conflict of interest exists but does not meet the technical definition. The appearance of a conflict may be just as damaging to the City's reputation as an actual conflict. All individuals are encouraged to avoid situations that create even the appearance of a conflict of interest. The overall public's interest must be the primary concern.
 - If an elected official is in a position to vote on an issue that involves a conflict of interest, they should abstain and remove him or herself from participating in the discussion pertaining to the item and not vote or attempt to influence the vote.
 - An elected official shall not discuss and/or vote on an issue that they stand to gain from financially – one for which either they or an immediate family member has an ownership interest.
 - An elected official shall not solicit or accept any compensation which might influence the manner in which they perform their official duty.

- If the issue creates an appearance of a conflict or impropriety, the individual should, at a minimum, disclose the nature of the concern to the other members of the body prior to the vote. Failure to do so jeopardizes the public perception of the outcome of the vote.
- An elected official shall not represent his or her personal opinion as that of the City.
- An elected official shall not solicit, negotiate, renegotiate, or approve, directly or indirectly, any contract or agreement representing the interest of the City unless specifically authorized to do so.

4.9 Telephonic Council Participation

From time to time a Councilor will not be able to be physically present at a council meeting, but will want to be involved in the discussion and/or decision on a particular agenda item. The procedure and guidelines for permitting a Councilor to attend a council meeting telephonically is covered in SBMC 2.05.010(b)

CHAPTER 5

AUDIENCE PARTICIPATION/ADDRESSING THE COUNCIL

5.1 Agenda Items

Not all agenda items are opened for open discussion from the floor. Anyone desiring to speak to the Council on an open agenda item must indicate their desire to speak to the Mayor. If that agenda item is on the floor for discussion, the Mayor may or may not recognize such persons and allow them to address the Council. If such persons are recognized this will generally take place following a staff report on the agenda item.

5.2 Non-Agenda Items

Anyone desiring to speak to the Council on a non-agenda item must first provide a properly completed request form to the Mayor. This form shall be placed at the entrance to the Council Chambers. The Mayor, at his or her discretion, may permit such persons to address the Council and may limit the time for comment as needed.

5.3 Manner of Addressing the Council

Each person addressing the Council shall stand up and give his/her name and subject matter of comments in an audible tone of voice for the record and, unless further time is granted by the chair, shall limit their address to three (3) minutes. All comments shall be made to the entire Council and not to any single member nor to staff. Any questions for Council members or staff shall be presented through the Mayor. The Council will determine the disposition of any issues raised (e.g., placed on the present agenda, workshops, other agendas, refer to staff, or do not consider).

5.4 Conduct of Audience

No audience member shall disrupt the conduct of the meeting or clap, cheer, hoot, holler, gesture, whistle, guffaw, jeer, boo, hiss, make remarks out of turn, use profanity, conduct sidebar conversation or the like. Any audience member who does so shall be determined out of order and the Mayor may have such person removed from the Council chambers immediately. Such person shall not be permitted to attend the remainder of that Council meeting.

5.5 Presenting Information

It is critical that all prepared information for consideration is thoughtfully examined by the City Council. Therefore all written materials, PowerPoint-style presentations, reports, facts, or any other form of presented or arranged information, must be included in the Council's agenda packet prior to the Council meeting. The deadline for inclusion within the Council's packet is close of business Wednesday, prior to a Council meeting. Presentations will be accepted at the Council Meeting without prior notice or inclusion, but that information may not be heard or considered.

5.6 Complaints to Council

All citizen complaints shall be submitted to the Clerk/Treasurer in writing, on the form provided by the City. Such forms are available at City Hall and must be signed by the person making the complaint. The Clerk/Treasurer shall forward any such written complaints to the appropriate person for review. Citizen complaints brought directly to the Council during a meeting will not be heard or considered.

CHAPTER 6

FILLING COUNCIL VACANCIES

6.1 Notice of Vacancy

If a Council vacancy occurs, the Council will follow the procedures outlined in SBMC 2.05.020. In order to fill the vacancy with the most qualified person available until an election is held, the Council will widely distribute and publish a notice of vacancy and the procedure and deadline for applying for the position.

CHAPTER 7

CRIMINAL CONVICTIONS AND VIOLATIONS OF THE CODE OF ETHICS FOR MUNICIPAL OFFICERS AND OATH OF OFFICE

7.1 Criminal Convictions

No Council member shall serve on the City Council after having been convicted of any criminal violation of Chapter 42.23 RCW (as now enacted or hereafter amended) or any felony or malfeasance in office (RCW 9.92.120, as now enacted or hereafter amended). No Council member shall serve on the City Council after having violated any of the provisions of Chapter 42.23 RCW (as now enacted or hereafter amended). No Council member shall serve on the City Council after having been convicted of any offense involving a violation of his or her official oath (RCW 42.12.010(5), as now enacted or hereafter amended).

CHAPTER 8

VIOLATIONS OF COUNCIL RULES AND PROCEDURES

8.1 Violations

Councilmembers shall conform their conduct to the requirements, standards and expectations set forth in these Rules and Procedures. In addition to and notwithstanding whatever other enforcement mechanisms may exist for legal, ethical or practical obligations on Councilor performance or conduct, violations of these Rules and Procedures by Councilors may be enforced by action of the City Council through sanctions such as votes of censure or letters of reprimand, and such other action as may be permitted by law.

Admonition: An admonition shall be verbal vote in open session, recorded in the minutes, made by the Council to the member.

Reprimand: A reprimand shall be administered to the member by letter. The letter shall be prepared by the City Council after action in open session to approve such letter. If the member objects to the contents of such letter, he/she may file a request for review of the content of the letter of reprimand with the City Council. The City Council shall review the letter of reprimand based on the request for review and any record established, and may take whatever action appears appropriate under the circumstances

Removal from office: Removal from office shall occur after trial on written charges before the City Council upon a two-thirds majority vote of the whole Council.

The action of the City Council in response to a violation of these Rules shall be final and not subject to further review before the City Council.

8.2 Amendment of these Rules

These rules may be amended or new rules adopted by a majority vote of the full Council, provided that the proposed amendments or new rules shall have been introduced into the record at a prior Council meeting.