



CITY OF FERNDALE, WASHINGTON CITY COUNCIL RULES OF PROCEDURE and ETHICS HANDBOOK





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APPENDIX A – ETHICS HANDBOOK

SECTION I COUNCIL MEETINGS - TIMES AND LOCATIONS

1. COUNCIL MEETINGS - TIMES AND LOCATIONS

All regular meetings of the City Council convening for the purpose of taking action upon city business shall be held on the first and third Mondays of each month at the City Hall Annex or other time or location as established by ordinance. Council meetings shall begin at 6 p.m. and adjourn no later than 9 p.m. No meeting shall be permitted to last beyond 9 p.m. without approval of a majority of the Councilmembers present, except the Mayor, as chairperson, may extend the meeting once up to 30 minutes beyond 9:00 p.m., without a vote of the Council, during meetings in which the City Council has not held a study session or other workshop the same day. A new time limit must be established before taking a Council vote to extend the meeting. In the event a meeting has not been closed or continued by Council the items not acted on shall be deferred to the next regular meeting, unless the Council, by majority vote of members present, determines otherwise.

Council committee meetings are considered regular meetings by the Ferndale City Council, and a quorum of members of the Council may from time to time be present at such meetings. However, while a Councilmember not appointed to a specific committee may be present for the purposes of discussion, at no time shall a Council majority take any final action at committee meetings. Should any final action be taken at a committee meeting, it shall be considered null and void.

Committee meeting absences are not subject to the provisions of RCW 35A.12.060 related to unexcused absences for regular meetings.

Committee members do not make final decisions on legislative issues, but only make recommendations to the full council.

In the event that a scheduled Council meeting falls on a legal holiday, the meeting shall be held at 6 p.m. on the first business day following the holiday.

The City Clerk's office shall notify the public of meeting cancellations pursuant to Chapter 42.30 RCW, the state's Open Public Meetings Act.

2. COUNCIL MEETINGS - OPEN TO THE PUBLIC - EXECUTIVE SESSIONS

All meetings of the City Council and of committees thereof shall be open to the public, except as provided for in RCW 42.30.110 or RCW 42.30.140. Executive Sessions are specifically exempted from the Open Public Meetings Act. Such meetings are closed except to the Council, Mayor, City Administrator and authorized staff members and consultants authorized by the Mayor or a majority of the Council. The public is restricted from attendance. Executive Sessions may be held during regular or special Council meetings. Executive Session subjects are limited to considering matters authorized by state law, as set forth in RCW 42.30.110 or RCW 42.30.140 or any other relevant chapter of the Revised Code of Washington.

Before convening an Executive Session, the Mayor shall announce the purpose of the meeting,

the expected length of time of the meeting and the potential action by the Council when it reconvenes. Should the session require more time, a public announcement shall be made, extending the meeting for a time certain. At the end of that time, if the discussion has not concluded, the meeting shall by public announcement again be extended to a time certain.

Executive Sessions shall begin and end in accordance with state law.

Councilmembers must keep confidential all written materials and verbal information provided to them during Executive Session to insure that the City's position is not compromised. Confidentiality also includes information provided to Councilmembers outside Executive Sessions when the information is considered to be exempt from disclosure under the Revised Code of Washington.

Pursuant to RCW 35A.12.120, providing for the City Council the ability to make its own rules, Councilmembers who have a conflict of interest or the appearance of a conflict of interest related to an executive session item must recuse themselves from the session and leave the room. A City Council member should use the officially adopted Ethics Handbook for Elected Officials or any other relevant City code, policy or state policy or statutory authority as guidance to assess a conflict of interest or any issue in which there may be the appearance of a conflict of interest. A council member may participate in that portion of an executive session not related to the item in which they have a conflict of interest or the appearance of a conflict of interest.

Should the City Council deem that a member of the council has a conflict of interest or the appearance of a conflict of interest and the member refuses to recuse themselves from the session, a majority of the councilmembers present may vote to exclude that member from that specific portion of the session in which they have said conflict or the appearance of said conflict. The council member who has made a motion to exclude a council member from an executive session should clearly state the reason for the conflict of interest or the appearance of a conflict of interest.

3. SPECIAL COUNCIL MEETINGS

RCW 35A.12.110 and RCW 42.30 (Open Meetings Act) in part specifies public announcement and openness requirements concerning Council meetings. Therefore the City Council requires that notification of Special meetings be made as follows: The Mayor or any three Council members may call a Special meeting giving 24 hour notice. A meeting notification package that includes place, time, agenda and supporting materials to be discussed and/or acted upon by the Council shall be posted on the City's website and delivered by any reasonable means or method, including e-mail or telephone notification. Council members shall provide the City Clerk with confirmation that they have received the meeting notification package through email receipt or verbal confirmation. Failure to obtain confirmation from all seven Councilmembers will not prevent Special meetings from being conducted; however, unless the Special meeting is called to deal with an emergency involving injury or damage to persons or property or the likelihood of such injury or damage, final decisions on issues will NOT be made or concluded at the meeting. Every means available to notify the public of a Special meeting will be used including daily newspapers, radio, city hall street sign, Riverside Drive e-board, city website and social media.

4. STUDY SESSIONS- WORKSHOPS

Regular or Special Council meetings, or a portion thereof, may be designated as Study Sessions or Workshops by the Mayor. Study Sessions and Workshops need have no formal

agenda and may be conducted informally, but shall not discourage public observation. The City Clerk shall record minutes of Study Sessions and Workshops. The minutes need only reflect the names of members and staff present and a brief description of the topic. No motions shall be entertained or votes taken at a Study Session or Workshop. The purpose of Study Sessions is to allow Councilmembers to be made aware of impending business and to allow informal discussion of issues that might be acted on at a future meeting. The purpose of Workshops is to allow Councilmembers to do concentrated preliminary work with administration on single subject but time consuming complex matters (i.e., Budget, complex legislation or reports, etc.).

5. PRESIDING OFFICER- MAYOR - MAYOR PRO TEMPORE

The Mayor shall act as the presiding officer at meetings of the Council, and shall be recognized as the executive and administrative head of the City. A Mayor Pro Tempore shall be elected by a majority vote of the Council from its own membership at the first meeting or a meeting soon thereafter after each general election and thereafter at such time as a vacancy occurs. The Mayor Pro Tempore shall hold office at the pleasure of the Council. In the temporary absence of the Mayor, the Mayor Pro Tempore shall act as the presiding officer at meetings of the Council. In the absence of both the Mayor and the Mayor Pro Tempore, the council shall appoint one of its members to act as the temporary Presiding Officer. Neither the appointment nor service of a member of the Council as Mayor Pro Tempore or temporary Presiding Officer shall abridge that individual's right to vote upon all questions coming before the Council

In the event of a protracted absence (defined as more than 30 days duration) by the Mayor, the Mayor Pro Tempore shall assume full mayoral executive and administrative authority and responsibility until such time as the Mayor is available to return to duty.

In the event that the Mayor is incapacitated or the office shall become vacant RCW 35A.12.050 shall apply.

6. QUORUM

Per RCW 35A. 12.120, at all meetings of the Council, four Councilmembers, who are present and eligible to vote, shall constitute a quorum for the transaction of business. A less number than four may adjourn from time to time, provided that written notice of said adjournment be posted on the exterior Council Chamber doors per RCW 42.30.090. Council meetings adjourned under the previous provision shall be considered regular meetings for all purposes.

7. ATTENDANCE

A. TELEPHONIC PARTICIPATION

A Councilmember may participate telephonically in all or part of a Council meeting under limited circumstances, and if:

1. Prior approval is given by the Mayor/Council for good cause, whose approval shall not be unreasonably withheld.
2. All persons participating in the meeting are able to hear each other at the same time, such as the use of a speakerphone.
3. The Councilmember participating telephonically shall have reviewed all of the applicable material and participated in the relevant portion of the Council meeting related to the topic to which the Councilmember is voting on. Any technical prohibitions or difficulties that prevent all parties present at the Council meeting from adequately communicating with one another will negate any authorization previously given by the Mayor/Council
4. Telephone charges are to be at the Councilmember's expense, unless waived by Council

motion.

5. A substitute could not be secured for a standing Committee meeting.

B. EXCUSED ABSCENCES

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

8. COUNCIL MEETING AGENDA

The City Clerk shall arrange a list of proposed matters according to the order of business and prepare a preliminary agenda. Proposed matters may be submitted by the Mayor, Councilmembers, Department Heads, and the City Administrator. A single Councilmember may submit a Committee agenda item to the City Administrator, Mayor or City Clerk. Items requiring Council action, other than resolutions and emergency actions, which have not been previously reviewed by the appropriate Committee, may be added to the regular Council agenda in one of the following ways:

1. By the Mayor
2. By the City Administrator and Staff
3. By the recommendation of a standing committee
4. By three Councilmembers

The preliminary agenda shall be completed by 3:00 p.m. on the Tuesday preceding the regular Council meeting in preparation for the Wednesday Committee meetings. Notice shall be furnished to the Newspaper of Record. Final agenda packets complete with all necessary information for the Council shall be available by 12 noon the Friday preceding a regular Council meeting. Should agenda items change after posting on the City website, updates will be made to the website duly noting the change. The Council is under no obligation to consider or act upon agenda items that are presented without necessary supporting information.

A limited number of agendas will be made available for each meeting on an unreserved basis and distributed on a first come first serve basis. Full agenda packets will be available at www.cityofferndale.org.

9. CONSENT AGENDA

Council Committees may recommend that certain items that have been previously discussed by the Council that are so routine and non-controversial that passage without discussion is likely, be placed on the consent agenda. The proper Council motion on the Consent agenda is as follows: "I move adoption of the Consent Agenda". This motion shall be non-debatable and will have the effect of moving to adopt all items on the Consent Agenda. Prior to the vote to approve the consent agenda, a Councilmember may request of the Mayor or president of the meeting to remove an item. This is non-debatable. If any matter is withdrawn, the remainder of the Consent

Agenda may be voted on. The Mayor shall place the withdrawn item for separate consideration at an appropriate place on the current agenda or move it to a future meeting.

10. CITY ADMINISTRATOR

The City Administrator or his/her designee shall attend all Council meetings, unless excused by the Mayor or the Council. The Administrator shall recommend measures for adoption; prepare and submit required reports; keep the Council and Mayor fully advised of the affairs of the City; and take part in Council discussions involving the welfare of the City, as stated and defined by the Ferndale Municipal Code.

11. CITY CLERK

The City Clerk or other Mayoral designee shall be the ex-officio Clerk of the Council and shall keep minutes as required by law, and shall perform such other and further duties in the meeting as may be required by the Council, Mayor, or City Administrator. The City Clerk shall keep minutes which identify the general discussion of the issue and complete detail of the official action or consensus reached, if any. The Clerk shall digitally record the proceedings of all public hearings and regular and special meetings and workshops, and shall keep and make available an index to the contents of each recording. The recordings shall be under the protection of the City Clerk and shall be available to any party who so requests, according to City Public Information Procedures.

SECTION II DUTIES AND PRIVILEGES OF MEMBERS

12. FORMS OF ADDRESS

The Mayor shall be addressed as "Mayor (surname)" or "Your Honor". Members of the Council shall be addressed as "Councilmember (surname)".

13. SEATING ARRANGEMENT

Councilmembers shall occupy the respective seats in the Council Chambers according to elected position number.

14. DUTIES OF THE PRESIDING OFFICER OF THE COUNCIL

It shall be the duty of the Mayor, Mayor Pro Tempore or the temporary Presiding Officer to:

- (a) Call the meeting to order and conduct a roll call of attendance.
- (b) Inform the Council of a member's absence, state the reason for the absence, and inquire if there is a motion to excuse the member.
- (c) Keep the meeting to its order of business.
- (d) State each motion and require a second to the motion. Put all motions to a vote and announce the outcome. Suggest but not make motions for adjournment.
- (e) Handle discussion in an orderly way.
- (f) Give every Councilmember who wishes an opportunity to speak.
- (g) Permit audience participation at appropriate times.

- (h) Keep all speakers to the rules and the questions.
- (i) Give pro and con speakers alternating opportunities to speak when possible or practical.
- (j) Appoint committees when authorized to do so.

The Mayor, Mayor Pro Tempore or temporary Presiding Officer shall have the authority to preserve order at all meetings of the Council, to cause removal of any person from any meeting for disorderly conduct and to enforce the rules of the Council.

15. APPEARANCE OF FAIRNESS DOCTRINE - DEFINITION AND APPLICATION

The appearance of fairness doctrine is a rule of law that requires government decision-makers to conduct non-court hearings and proceedings in a way that is fair and unbiased in both appearance and in fact. The Appearance of Fairness Doctrine applies only to those actions of the Council which are quasi-judicial in nature. Quasi-judicial actions are defined as actions of the City Council which determine the legal rights, duties, or privileges of specific parties in a hearing or other contested proceeding. Quasi-judicial actions do not include the legislative actions adopting, amending or revising comprehensive, community, or neighborhood plans or other land use planning documents or the adoption of area-wide zoning ordinances or the adoption of a zoning amendment that is of area-wide significance. RCW 42.36.010.

Councilmembers should recognize that the Appearance of Fairness Doctrine does not require establishment of a conflict of interest, but whether there is an appearance of conflict of interest to the average person. This may involve the Councilmember, a Councilmember's business associate, or a member of the Councilmembers immediate family. It could involve ex parte communications, ownership of property in the vicinity, business dealings with the proponents or opponents before or after the hearing, business dealings of the Councilmember's employer with the proponents or opponents, announced predisposition, and the like. Prior to any quasi-judicial hearing, each Councilmember should give consideration to whether a potential violation of the Appearance of Fairness Doctrine exists. If the answer is in the affirmative, no matter how remote, the Councilmember shall disclose such facts to the City Administrator who will seek the opinion of the City Attorney as to whether a potential violation exists. The City Administrator shall communicate such opinion to the Councilmember and to the Mayor.

Anyone seeking to disqualify a Councilmember from participating in a decision on the basis of a violation of the Appearance of Fairness Doctrine must raise the challenge as soon as the basis for disqualification is made known, or reasonably should have been made known, prior to the issuance of the decision. Upon failure to do so, the Doctrine may not be relied upon to invalidate the decision. The party seeking to disqualify a Councilmember shall state with specificity the basis for disqualification; for example demonstrated bias or prejudice for or against a party to the proceedings, a monetary interest in the outcome of the proceedings, pre-judgment of the issue prior to hearing the facts on the record, or ex parte contact. Should such challenge be made prior to the hearing, the City Administrator shall direct the City Attorney to interview the Councilmember and render an opinion as to the likelihood that an Appearance of Fairness violation would be sustained in superior court. Should such challenge be made in the course of a quasi-judicial hearing, the Mayor shall call a recess to permit the City Attorney to make such interview and render such opinion.

The Mayor or two or more Councilmembers shall have authority to request a Councilmember to excuse himself/herself on the basis of an Appearance of Fairness violation. In arriving at this decision, the Mayor or other Councilmembers shall give due regard to the opinion of the City Attorney.

Notwithstanding the request of the Mayor or other Councilmembers the Councilmember may participate in the proceeding.

Specific Statutory Provisions:

(a) Candidates for the City Council may express their opinions about pending or proposed quasi-judicial actions while campaigning, RCW 42.36.040, except that sitting Councilmembers shall not express their opinions on any such matter which may come before the Council.

(b) A candidate for the City Council who complies with all provisions of applicable public disclosure and ethics laws shall not be limited under the Appearance of Fairness Doctrine from accepting campaign contributions to finance the campaign, including outstanding debts. RCW 42.36.050.

(c) During the pendency of any quasi-judicial proceedings, no Councilmember may engage in ex parte(outside the hearing) communication with proponents or opponents about a proposal involved in the pending proceeding, unless the Councilmember:

(1) places on the record the substance of such oral or written communications; and

(2) provided that a public announcement of the content of the communication and of the parties' right to rebut the substance of the communication shall be made at each hearing where action is taken or considered on the subject. This does not prohibit correspondence between a citizen and his/her elected official if the correspondence is made a part of the record, when it pertains to the subject matter of a quasi-judicial proceeding. RCW 42.36.060

16. DISSENTS AND PROTESTS

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

17. APPOINTMENTS OF BOARDS AND COMMISSIONS

Scheduled and end-of-term vacancies on Boards and Commissions shall be advertised for a period of two weeks in the official newspaper of the City inviting application by residents no more than 60 days nor less than 45 days prior to the date upon which such vacancy is to be filled.

Unscheduled vacancies shall be filled as soon as practically possible after being advertised in the official City newspaper for at least two consecutive weeks. The Mayor shall select up to

three qualified candidates for recommendation to the full Council in rank order of preference for confirmation. Failing confirmation of the first candidate the Mayor shall present the alternate candidates until such time as confirmation is forth coming. Should all qualified applicants fail confirmation the Council may require that the vacancy be re-posted in the newspaper.

18. APPOINTMENTS OF DEPARTMENT HEADS AND SUPERVISORY PERSONNEL

All open positions shall be advertised in the official newspaper of the City for two consecutive weeks prior to the date upon which such position is to be filled. The City Council shall participate in the appointment of all City Department Heads and Supervisory Personnel through a confirmation process. The confirmation process includes the following: The Mayor or designated Department Head shall present up to three possible appointees in rank order of preference along with any supporting material to the full Council for confirmation. Should the first candidate fail confirmation, the second and third applicants will be put forward until such time as confirmation is forth coming. Should all candidates put forward fail confirmation, the vacancy shall be re-posted in the newspaper. All appointments will be selected following established laws, rules, and regulations relative to civil service and other lawful hiring practices.

19. INTERFERENCE - MAYOR - COUNCIL

The Separation of Powers Doctrine requires that the Mayor will not direct Councilmembers in the performance of their duties nor make assignment of tasks unless such tasks are specifically directed and identified by RCW. The Doctrine also requires that the Council and any committee thereof limit their correspondence with City Officials and Employees to activities of inquiry ensuring they do not direct work activities. If the inquiry from a Councilmember will cause extra effort or create substantial work, the inquiry shall be made in writing to the Mayor who will assign the inquiry appropriately. Removal of appointive and direct hire personnel is not within the authority of the Council. Both the Council and the Mayor have equal access to the contract attorney; however, since the budget for this purpose is controlled by the Mayor these services should be cleared by the Mayor before use. Nothing herein shall be construed to prohibit the Council, while in Executive session, from fully and freely discussing with the Mayor and/or City Administrator anything pertaining to appointments and removals of City officers and employees. RCW 42.30.110(g).

SECTION III COUNCIL PROCEDURES

20. RULES OF ORDER

Rules of order not specified by statute, ordinance or resolution shall be governed by Robert's Rules of Order (newly revised 1998 edition).

21. MOTIONS

All items of business placed before the Council that requires the expenditure of Council and/or administration resources shall be in the form of an affirmative motion. Affirmative motions are preferred to prevent "approval by default" of a failed motion.

22. ORDER OF BUSINESS

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

(a) Call to order

- (b) Pledge of allegiance
- (c) Roll call (see rule 7 for procedure to excuse absence)
- (d) Public Comment (items not on agenda)
- (e) Consent Agenda
- (f) Public Hearing (if applicable)
- (g) Items for Council consideration/action
- (h) Mayor Reports/Comments
- (i) Council Reports/Comments
- (j) Department Reports
- (k) Executive Session (as required) Note: Executive Session may be held at another point in the meeting as appropriate, per direction of Council or Mayor.

PUBLIC COMMENT All public comments shall be made to the Council as a whole. Any person making personal, impertinent, or slanderous remarks, or who becomes boisterous, threatening or personally abusive while addressing the Council, shall be requested to leave the meeting.

Any group of three (3) or more persons representing the same position on an issue shall designate a spokesperson who shall limit his/her comments to five (5) minutes. Each additional person representing the same position shall have a one (1) minute time limit.

PUBLIC COMMENT - ITEMS NOT ON AGENDA All comments by the public shall be made from the speaker's rostrum, and any individual making comments shall first give their name and address for the record, and limit their remarks to three (3) minutes.

PUBLIC COMMENTS AGENDA ITEMS All comments by the public shall be made from the speaker's rostrum, and any individual making comments shall first give their name and address for the record, and limit their remarks to three (3) minutes. The procedure for Public comments regarding subjects on the current agenda shall be as follows;

- (a) Introduction of the subject by the Mayor
- (b) Presentation of staff reports or comments where applicable.
- (c) Comments from individuals initially requesting agenda item or those primarily impacted by the decision.
- (d) Council discussion.

(e) Citizens comment, directed to the Council, with no person commenting more than once without the full concurrence of the Council and then only after all others wishing to speak have had an opportunity to do so.

(f) The comment period will be closed and additional comment will be accepted only as requested in the form of a question by a member of the Council or Mayor in order to clarify an issue. Rebuttal of additional comments accepted shall be allowed to insure all points of view are heard.

(g) The Council will further discuss the agenda item, when applicable frame a motion for debate, and act upon the motion.

23. ACTIONS FOR PUBLIC HEARING

The procedures for a public hearing are as follows:

(a) The City Clerk shall provide sign-up sheets in council chambers for those wishing to speak on an item scheduled for an official public hearing. Any person who fails to sign in shall not be permitted to speak until all those who signed in have done so. At any public hearing all persons who have signed in and wish to be heard shall be heard.

(b) The Mayor, subject to concurrence of the Council, may change the order of speakers to ensure testimony is heard in the most logical groupings, and otherwise organize and control presentations. Speakers shall be given three (3) minutes to speak at the hearing.

(c) The Mayor shall introduce the agenda item, open the public hearing, and announce the following Rules of Order, which will be attached to the back of the council agenda sheet:

1. Audience members who signed up prior to the beginning of our meeting will be called first to speak at this public hearing. If you were unable to sign up before the meeting, you will be given an opportunity to address the council once we've gotten through all the speakers listed on the hearing sheets.

2. Each speaker should state his or her name and address for the record and will be given three minutes to address the council.

3. When a large group of individuals supports the same position on an issue, we encourage the selection of one or two representatives to speak on behalf of the entire group.

(d) When the Council conducts a hearing to which the Appearance of Fairness Doctrine applies, the Mayor (or in case of a potential violation by that individual, the Mayor Pro Tempore) shall ask if any Councilmember knows of any reason that would require such member to excuse themselves pursuant to the Appearance of Fairness Doctrine. The form of the announcement is as follows: All Councilmembers should now give consideration as to whether they have: a demonstrated bias or prejudice for or against any party to the proceedings, a direct or indirect monetary interest in the outcome of the proceedings, pre-judgment of the issue prior to hearing the facts on the record, or ex parte contact with any individual, excluding administrative staff, with regard to an issue prior to the hearing. If any Council member should answer in the affirmative, then the Councilmember should state the reason for their answer at this time, so

that the Mayor may inquire of Administration as to whether participation would result in a potential violation of the Appearance of Fairness Doctrine.

24. VOTING

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

(a) Voice vote is the preferred method for the majority of votes. Council or Mayor may request a division of vote by a show of hands or a roll call vote. The order of the roll call vote shall be determined by the Mayor or City Clerk. Council may vote to suspend the rules and vote using another method provided it complies with OPMA.

(b) In case of a tie in votes on any proposal, the proposal shall be considered lost, unless the Mayor is authorized to break the tie.

(c) Every member who was in the Council chambers when the question was put shall give their vote unless the Council, for special reasons, shall excuse the member by motion or unless the Council member is excused in accordance with Rule 15. If any Councilmember refuses to vote "aye or nay", his/her vote shall be counted as a "nay" vote.

(d) The passage of any ordinance, grant or revocation of franchise, or license, and any resolution for the payment of money or approval of warrants shall require the affirmative vote of at least a majority of the whole membership of the Council. RCW 35A.12.120

(e) 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 a budget amendment, shall require the affirmative vote of at least a majority plus one of the whole membership of the Council

(f) The passage of any motion or resolution not subject to the provisions of RCW 35A.12.130, or the Ferndale Municipal Code, shall require the affirmative vote of at least a majority of the Councilmembers present and eligible to vote.

(g) If a member wishes to abstain he/she shall inform Council and the Mayor before the vote is called, stating the reason for the abstention. An "abstain" vote shall be counted as a "no" vote on the motion.

(h) The Mayor shall have the power to veto ordinances passed by the Council and submitted to him or her as provided in RCW 35A.12.130 but such veto may be overridden by the vote of a majority of all Councilmembers plus one vote.

25. COUNCIL STANDING COMMITTEES

The procedures governing the appointment and operation of all committees of the Council shall be as follows:

(a) It shall be the responsibility of the Council to appoint its own members to Council standing committees at the first regular meeting of the Council in January following the election of Ferndale Councilmembers, or otherwise as vacancies occur. Each Committee shall consist of three members, at least one of whom, when possible, shall be a re-appointment to the Committee on which he or she served during the previous biennium. Councilmembers shall state their preference for the Committees on which they wish to serve. In the event more

Councilmembers state a preference for a Committee than there are vacancies, the appointment shall be made by drawing of lots. Every Councilmember shall serve on at least one Committee.

(b) Each Committee shall establish its own meeting times.

(c) Special Ad Hoc committees for a particular purpose may be established and appointed by the Council or the Mayor, along with a clear task description and "sunset" provision.

(d) Committees shall make recommendations, when appropriate, on proposed ordinances, resolutions and motions within their area of responsibility, before action is taken by the Council. The Committee Chair may present the recommendations of the committee during the discussion of items of business.

26. ENACTED ORDINANCES- RESOLUTIONS- MOTIONS

An enacted ordinance is a legislative act prescribing general, uniform, and permanent rules of conduct relating to the corporate affairs of the city. Council action shall be taken by ordinance when required by law, or where such conduct is enforced by penalty. An enacted resolution is an administrative act which is a formal statement of policy concerning matters of special or temporary character. Council action shall be taken by resolution when required by law and in those instances where an expression of policy more formal than a motion is desired. An enacted motion is a form of action taken by Council to direct that a specific action be taken on behalf of the city. A motion, once approved and entered into the record, is the equivalent of a resolution in those instances where a resolution is not required by law.

27. RESOLUTIONS

A Resolution may be put to its final passage on the same day on which it was introduced. The title of each resolution shall, in all cases, be read prior to its passage; provided, should a Councilmember request that the entire resolution or certain of its sections be read, such requests shall be granted. Printed copies may be obtained at city hall during regular business hours.

28. ORDINANCES

The procedures for ordinances are as follows:

(a) A Councilmember may, in open session, request of the Mayor that the Council study the wisdom of enacting such an ordinance. The Mayor then may assign the proposed ordinance to Administration, a committee or the Council of the whole for consideration. The findings shall be reported to the Council.

(b) Unless passed to a second reading by a majority vote of the Council, an ordinance shall have one reading. At each reading the title of an ordinance shall, in all cases, be read prior to its passage; provided that should a Councilmember request that the entire ordinance or certain of its sections be read, such requests shall be granted. Printed copies may be obtained at city hall during regular business hours.

(c) Any ordinance repealing any portion of the Ferndale Municipal Code shall also repeal the respective portions of the underlying ordinance(s).

29. PERMISSION REQUIRED TO ADDRESS THE COUNCIL

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

30. RECONSIDERATION

Any action of the Council, including final action on applications for changes in land use status, but excluding a reconsideration of any action previously reconsidered, motions to adjourn, motions to suspend the rules, an affirmative vote to lay on the table or to take from the table, or to vote electing to office one who is present and does not decline; shall be subject to a motion to reconsider. Such motions can only be made by a member of the prevailing side on the original action. A motion to reconsider must be made no later than the next succeeding regular Council meeting. A motion to reconsider is debatable only if the action being reconsidered is debatable. Upon passage of a motion to reconsider, the subject matter is returned to the table anew at the next regular Council meeting for any action the Council deems advisable.

31. LEGISLATIVE PROCESS - AGENDA BILL PREPARATION

All items requiring Council action shall be accompanied by an Agenda Bill detailing background, Committee and staff review, and historical information regarding the issue. Such items shall be considered drafts prior to final passage.

32. COMPLAINTS AND SUGGESTIONS TO COUNCIL

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

(a) If legislative and a complaint about the letter or intent of legislative acts or suggestions for changes to such acts, and if the Council finds such complaint suggests a change to an ordinance or resolution of the City, the Mayor may refer the matter to a committee, Administration, or the council of the whole for study or recommendation.

(b) If administrative and a complaint regarding administrative staff performance, administrative execution of legislative policy or administrative policy, the complaint shall be reviewed by the Mayor. The City Council may request a written report to the Council when the complaint review is complete.

(c) The Mayor, or his/her designee, shall, in writing, by telephone, or in person, respond in a timely manner to citizen complaints and suggestions, regarding the disposition of the stated complaint or suggestion.

33. ADMINISTRATIVE COMPLAINTS MADE DIRECTLY TO INDIVIDUAL COUNCILMEMBER

When administrative policy or administrative performance complaints are made directly to individual Councilmembers, the Council member shall then refer the matter directly to the Mayor for review and/or action, whichever is appropriate. The individual Councilmember may request to be informed in writing of the action or response made to the complaint,

34. FILLING COUNCIL VACANCIES

If a vacancy occurs in the office of Councilmember, the Council will follow procedures as per RCW 42.12. 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, along with the procedure for applying. The Council will draw up an application form which contains relevant information to answer set questions posed by the Council.

The application forms will be used in conjunction with an interview of each candidate to aid in

the Council's selection of the new Councilmember.

If the vacancy occurs because of an election of a current Councilmember to another office, the current Council shall initiate a search process according to the above procedures, which the incoming Council may or may not use.

35. PHOTOGRAPHS, MOTION PICTURES, VIDEO TAPES, ARTIFICIAL ILLUMINATION

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

36. A: AUDIO RECORDINGS OF MEETINGS

All regular meetings, Public Hearings and Quasi-judicial Proceedings, Workshops and Study Sessions of the City Council shall be recorded by the City Clerk on an audio recording device.

36. B: TIMECARDS AND PAY PROCEDURES:

The City of Ferndale pays Councilmembers by direct deposit in a manner so that the amount, method, and timing of wage payments comply with any applicable laws or regulations. Compensation shall be issued during the first pay period of each month, generally the fifth day of each month, during the elected official's term of office. If the regular payday occurs on a Saturday, Sunday, or a holiday, Councilmembers will be paid on the last working day before the regular payday.

37. WAIVER OF RULES

These rules of procedure are adopted for the sole benefit of the members of the City Council to assist in the orderly conduct of business. The rules of procedure do not grant to the public or third parties any rights or privileges other than those provided by RCW. Failure of the City Council to adhere to these rules shall not result in any liability to the City, its officers, agents or employees, nor shall failure to adhere to these rules result in invalidation of any Council act. The City Council may, by majority vote, determine to temporarily waive any of the provisions herein.

38. AMENDMENT OF RULES

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

APPENDIX A – ETHICS HANDBOOK

City of Ferndale Ethics Policy and Integrity Statement

Public trust is the cornerstone of a healthy city government. City Elected Officials are in a unique position to influence the public's confidence and trust since they are the visible representatives of the City. Elected officials must be committed to a philosophy of ethical behavior and integrity. To this end this Ethics Handbook has been adopted to serve as a guide in assessing behaviors and decisions that may compromise the City's and the public's standards of behavior.

Note: This Handbook is intended to supplement relevant state law regarding ethics including but not limited to RCW 42 Public Officers and Agencies and RCW 35A.12 Mayor-Council Plan of Government.

GENERAL CHARACTER AND STANDARDS OF PERFORMANCE

The preservation of public trust is critical for the preservation of democracy. At the core of ethical behavior are some basic standards that public officials should use to reach a level of conduct that strives to be beyond reproach. Some of the items that define the general character of high ethical behavior include the following:

Honesty and Integrity – The public trust in the City Council and Mayor can be a reality only when public officials are truthful.

Impartiality and Respect – All issues and all citizens shall be handled with fairness, impartiality, and respect. This includes dividing time reasonably among potential speakers on an issue at a public hearing and being accessible, open and direct to other members of the Council and Mayor. The public is entitled to communicate with their public servants and to understand the position of the Council on public issues.

Fair and Equitable Treatment – As public servants, we must perform our duties in a fair and equitable manner. This means that elected officials shall not exceed their legal authority to assist private entities or individuals where this would result in preferential treatment, not permitting oneself to be placed under any kind of personal obligation that could lead to expectations of favors, and not treating anyone less favorably because of their race, color, creed, religion, national origin, age, sex, or political affiliation.

Effort – Elected officials have an obligation to attend meetings and to be prepared. It is expected that officials will review materials, participate in discussions and make informed decisions on the merits of an issue.

Accountability – Elected officials understands that they shall accept responsibility for his or her actions and is accountable and responsible for their own personal code of ethics.

CONFLICT OF INTERESTS

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 Ferndale 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.

GIFTS

Since gifts always have the potential to influence decisions and create perceptions of impropriety, the standard and general practice is to refuse gifts and to not use one's position to influence, request, or accept a gratuity or gift. Gifts include, but are not limited to, monetary compensation, gift cards, meals, travel, entertainment tickets, sporting events, concerts, theaters, and other tangibles or contributions that have a personal value.

Items that may be considered permissible include:

- Food and refreshments of insignificant value on an infrequent occasion within the course of a meeting, conference, or other occasion where you are representing the city's interest.
- Nominal gifts from other city officials or employees on appropriate occasions (birthdays, weddings, etc.).
- Nominal gifts while visiting other places, or hosting official city visitors when it would be a breach of protocol to refuse the gift.

- Gifts to commemorate a public event in which you participated, such as a ground breaking ceremony.
- Winning or receiving a promotional gift from a business, where the opportunity to win/receive the gift is open to the community in general.
- Reasonable expenditures for travel, food, and lodging that are made in return for participation in a panel or speaking engagement, assuming however that the sponsoring organization does not do business with the City.
- Honoraria including payment for making a presentation or authoring an article providing that the speech or article is not related to an individual's official duties with the City of Ferndale.
- Occasional and infrequent minor (less than \$50 in value) items such as meals or tickets to public events.

MANAGEMENT OF CONFIDENTIAL INFORMATION

The City of Ferndale is committed to maintaining an open and accessible government intended to engender trust and confidence from the public. Equally important to garnering public confidence, is protecting confidential information. Elected officials often have access to important confidential information regarding the property, operations, policies or affairs of the City. The disclosure of inside information may benefit the few at the expense of the city and may contribute to the deterioration of public confidence. Specifically elected officials shall not:

- Willfully or knowingly disclose any confidential, privileged, or protected information – whether discussed and disclosed in Executive Session or not – unless authorized or required by law to do so.
- Use any confidential, privileged, or protected information to advance the financial or other private interest of himself or herself or others.
- Accept employment or engage in any business or professional activity which will require the disclosure of confidential, privileged, or protected information.
- Disclose any confidential information, without formal authorization, concerning any city official or employee, or any other person, or any property or governmental affairs of the city.
- Suppress or refuse to provide city reports or other information which is publicly available.

How information is collected and used involves ethics and directly impacts the standards of performance and behavior that the City of Ferndale wishes to achieve. Elected officials who trade information that rightfully is considered confidential, privileged, or protected are ultimately liable if these standards are not upheld.

POLITICAL ACTIVITY

Political engagement is necessary for the health of city government and is encouraged for all of our citizens. To ensure this, elected officials shall not use their political position to advance private interests and shall not use their influence, power, or position to reward or give favors for partisan participation on any campaign or cause. Specific prohibited behavior includes, but is not limited, to the following:

- Elected officials shall not engage in political campaigning at city meetings or within city buildings, however this does not prohibit a candidate from participating in a public forum or debate.
- Using public resources for political campaigning such as circulating petitions during a city meeting or soliciting city employees to support their specific cause.
- Making campaign speeches at Council meetings or touting their, or another's, candidacy, or urging residents to vote for them or another, through words, buttons, signs, or other means during a duly noticed public meeting.

UNDUE INFLUENCE

As leaders within City government, elected officials need to set the standard through their words and actions by demonstrating the qualities needed to ensure that our workplace culture supports personal responsibility, professionalism, collaboration, honesty, fairness, respect, and accountability. Undue influence involves one person taking advantage of a position of power over another person. Elected officials are expected to engage in the highest level of professional behavior when dealing with City employees or others who are supported by the City. No elected official shall knowingly, or with reason to know:

- Use or attempt to use their official position to secure for him/her or for others unwarranted privileges or exemptions which are not available to similarly situated individuals.
- Act in a manner which would cause a reasonable person to conclude that the official can improperly influence or unduly enjoy favor through the performance of their official duties.
- Place pressure on other elected officials and employees that would cause them to deviate from preferred and acceptable public processes or to deviate from accepted ethical behavior.
- Use the prestige of their office for his, her or another's personal gain or preferential treatment.
- Use the public office for private gain, provide preferential treatment, impede government efficiency or economy, make government decisions outside of official channels or adversely affect the confidence of the public in the integrity of the local government.
- An elected official shall not make any policy statements which promise to authorize or to prevent any future action, agreement, or contract when, in fact, the official has no authority to do so.

- An elected official shall not act on behalf of the city when making contracts when, in fact, he or she has no authority to do so.
- An elected official shall not take any action or create the appearance of making a government decision outside of official channels.
- An elected official shall not interfere with the ordinary course of law enforcement within the city, and shall not suggest or request special favors or consideration or disposition of any law enforcement person in the city concerning any law enforcement matter including, but not limited to parking tickets, traffic tickets, or the enforcement of city codes.
- An elected official shall not interfere in the judicial process by involvement in a matter before the court, if the elected official is not themselves named in the legal action.
- An elected official shall not investigate or cause an investigation or inquiry to be completed for legal actions pending against any citizen unless the elected official is directly involved in the matter.

USE OF PUBLIC PROPERTY, FACILITIES, RESOURCES, AND EXPENSES

It is imperative that the City of Ferndale remains fiscally responsible by properly managing resources. Elected officials should not, directly or indirectly, use or allow the use of City property for anything other than official activities. Specifically this includes, but is not limited to, the following:

- **Expense Reports and Travel** – When traveling on City business, elected officials shall conduct themselves professionally as representative of the City of Ferndale. Officials are entitled to be reimbursed for actual and necessary expenses during travel.
- **Equipment and Facilities** – Elected officials shall not use city equipment or city facilities for private purposes, except to the extent that they are available to the public.
- **Voice and Electronic Mail** – Electronic and voice mail are to be used only for official business and are to be used in a respectful and professional manner. Electronic mail may be considered a public record and may be subject to disclosure.
- **Use of Staff** – Elected officials need to be sensitive to the role of the Mayor and Administrator and shall work through them regarding use of city staff. Councilmembers may ask staff members about the status of a matter and may ask for information, but Councilmembers shall not expressly or implicitly give orders or direction to staff, except through their participation on the City Council. They shall not try to privately influence the decisions or recommendations of staff members, but they may share information with staff. Council shall not intervene directly with staff on behalf of a particular constituent or organization but shall participate with the Council in discussing and deciding policy matters for staff to carry out.

REMEDIES FOR VIOLATIONS

The integrity of individual councilmembers and the Mayor reflects, both positively and negatively, on the overall public perception of the ethical behavior of the entire Council. The behavior of an elected official colors the public confidence and therefore the City Council and Mayor have a vested interest in promoting ethical behavior and adherence to established levels of professional public interaction.

To promote these goals and to provide a progressive discipline atmosphere wherein the Council is in a position to affect the behavior of its members and the Mayor, the following remedies for violations of this Ethics Handbook are hereby adopted. It should be noted that, depending on the severity of the ethical lapse, the Council has the authority to choose the appropriate level of discipline without strictly adhering to the progressive steps outlined below.

Step One – Should, by majority vote of the Council, it be determined that an elected official violated one or more sections of this Ethics Handbook, a public Declaration of Admonishment shall be read and entered into the record of a public Council meeting.

Step Two – Should, by majority vote of the Council, it be determined that there have been additional violations of the Ethics Handbook subsequent to the issuance of the Declaration of Admonishment, or if the ethical lapse is determined to be of such magnitude, the Council shall issue, via a formal Resolution, a Public Censure.

Step Three – Should there be a subsequent violation of the Ethics Handbook either following the issuance of either a Declaration of Admonishment and/or the passage of a formal Resolution of Public Censure, or if the violation is deemed to be of such severity, the Council shall, by a majority plus one vote, remove the offending elected official from his/her intergovernmental and liaison assignments and publish notice of such action in the newspaper of record. The Council shall also determine the duration of such removal.

Step Four - Should there be a subsequent violation of the Ethics Handbook either following the issuance of either a Declaration of Admonishment, the passage of a formal Resolution of Public Censure, or the removal of the offending elected official from his/her intergovernmental and liaison assignments, or if the violation is deemed to be of such severity, the Council shall, by a majority plus one vote, remove the offending Councilmember from all Council Committee assignments and publish notice of such action in the newspaper of record. The Council shall also determine the duration of such removal.

Note: The invocation of one of these remedies shall not preclude the application of other or all of the remedies as listed in this section. These remedies shall not be exhaustive in that certain ethical issues might be subject to prosecution or other legal action pursuant to Washington State law. In these instances, the matter may be referred to the County Prosecuting Attorney for review and further legal action.

COMPLAINT PROCESS

Complaints regarding ethics are intended to be an internal Council process and are not intended to supplant other legal means of redress. Actions taken to address ethics complaints shall only be initiated by other City elected officials and shall not be commenced by other parties or on the behalf of other parties by an elected City official.

Any elected official who believes that a violation exists as prohibited in this Handbook may make a complaint which shall be a written formal signed complaint to the City Administrator,

who shall cause same to be referred to the City Attorney for review and recommendation. Such review may include the ability of the accused to meet with the City Attorney to rebut such charges. This City Attorney review and recommendation shall be forwarded to the City Administrator, with a copy to the complainant.

If the review by the City Attorney has shown that there was a violation of the Ethics Handbook, the matter shall be referred to a three-Councilperson Ethics Ad-Hoc Committee who shall review the City Attorney's report and forward a recommendation to the full Council.

The matter shall then be scheduled for the next available Council Meeting, at which time, final action shall be determined. In accordance with State law, the review and discussion of such complaint may, at the request of the accused, be held in Executive Session. Any final action shall be made in open session of the City Council.

The membership on the Ad-Hoc Ethics Committee shall be determined by the Council in public session on a case-by-case basis and shall not include the accuser or others who are listed on the complaint as witnesses. Should it not be possible for three qualifying Councilmembers to serve on the Ad-Hoc Ethics Committee, the report by the City Attorney shall be forwarded directly to the Council for final action.



Ethics Complaint Form

Please type or print legibly and attach additional pages as necessary

Complainant Information

Name of Elected Official: _____

Official Title: _____

Address: _____

Respondent Information

Name of Respondent: _____

Official Title: _____

Address: _____

Allegation(s)

Complaints that allege that an Elected Official engaged in some form of misconduct that is not within the City Attorney's authority to resolve will be forwarded to the appropriate agency for review and possible enforcement.

Description of Facts

Provide a specific description of the facts constituting the violation(s), including relevant dates. Attached additional sheets as necessary

Witnesses

Provide the following information about person(s) you believe may have information that would assist in the evaluation of this complaint.

Name of Witness:

Address:

Information you believe this person can provide to support the allegations stated in this complaint:

Name of Witness:

Address:

Information you believe this person can provide to support the allegations stated in this complaint:

Name of Witness:

Address:

Information you believe this person can provide to support the allegations stated in this complaint:

Documentation

Attached copies of any documentation in your possession that relate to the allegations stated in this complaint. In addition, indicate below whether there are other records, not in your possession, that you believe may assist the City in its evaluation of this complaint.

Additional Information

Provide any additional information that you believe may assist the City in evaluating

this complaint.

Related Complaints

Are there any current or open complaints related to this complaint?

Have you made the same or similar allegations to another agency or court?

If yes, identify the agency or court below and attached a copy of any complaint or other written description of the allegations submitted to that agency or court.

Verification

I certify under the penalty of perjury under the laws of the State of Washington that the above statements are true and correct to the best of my knowledge.

Executed:

(Date)

At:

(City and State)

By:

(Typed or printed name)

(Signature)