



FRUITA COLORADO

City of Fruita Council Meeting Rules of Order

Simplified Rules of Order for City Council Meetings

Updated Sept. 27, 2022

Purpose

The purpose of these guidelines is to establish a record approved by City Council to meet its Charter obligation and make its own rules and order of business. For Council Procedures, see the Fruita City Charter, Article II, The City Council 2.07 – 2.14. For Council meeting order of operations, please see the official City Council meeting agenda for the specific meeting.

Terminology

Certain words and phrases are used throughout to refer to actions or persons involved in a meeting. Some of these words and phrases are capitalized to remind the reader that the word or phrase has a specifically defined meaning.

Amendment (or to Amend) - An amendment is a motion to change, to add words to, or to omit words from a pending motion. The amendment is usually intended to clarify or improve the wording of the original motion and must be germane to that motion.

Body – The City Council, which is the formally constituted organization commissioned with the obligation and duty to act on behalf of the City of Fruita by ordinance, resolution or motion.

Chairperson – The Mayor is elected to preside over Council meetings.

Floor – The privilege or right to speak to the body.

Member – The City Councilors elected to hold office as a recognized participant of the body.

Motion – A formal proposal seeking specific action by the body typically preceded by the words “I move that ...” or “I make a motion that” Motions are generally introduced by voice but may be presented to the body in writing.

Moving Party – The Member presenting a motion or point for action by the body.

Second – An oral declaration by a Member to express that a motion offered to the body should receive debate or discussion.

General Guidelines

Certain guidelines are incorporated into the *Rules of Order*. Each of these guidelines are subject to rejection or modification by the Council.

These Guidelines are clarified below:

- ***The Mayor Serves as the Parliamentarian.***

During a meeting, decisions regarding the proper application of the *Rules* will be required. For example, a determination will need to be made during a meeting that a particular motion is, or is not, Out of Order (*i.e.*, appropriate for presentation under the *Rules*). “Parliamentarian” is the customary term used to identify the person with a solid understanding of the meeting rules and who is commissioned to render decisions on the applicable and proper procedure. The Mayor serves as the Parliamentarian.

Per the City Charter, the Mayor has the following powers and duties pertaining to Council meetings:

- Preside over Council meetings;
- Call special meetings;
- Subject to Council review and approval, appoint members of boards and commissions;
- Recommend ordinances, resolutions, and motions;
- Vote in the event of a tie vote of the Council;
- Be recognized as the political head of the city government;
- Approve or disapprove ordinances in accordance with Colorado Revised Statutes and any amendments, revisions and renumbering of that statute; and
- Other powers and duties as designated by the City Council.

- ***Abstaining from Voting is not Permitted.***

Members agree to perform the duties of the position unless prevented by law.¹ A member may wish to “abstain” (*i.e.*, not declare a formal vote or position) due to a myriad of reasons which may include a simple desire to avoid being placed on the record in support or opposition of a proposition. Such an abstention for personal reason or convenience constitutes a neglect of the duty freely accepted by the elected or appointed member to represent the body and the public and, therefore, is not permitted by these *Rules of Order*.

- ***A Conflict-of-Interest Mandates Recusal from Voting.***

When a member faces a lawfully recognized conflict of interest, the member shall recuse² themselves from all participation in the matter and shall not vote. Moreover, the conflicted member shall not be permitted to influence the body by participation in the consideration, deliberation, or debate on the matter and may not seek to influence individual members outside of the public meeting or the hearing. Mandating that a member recuse themselves from advocating and voting on a matter due to a conflict of interest is lawfully permitted and a member has no personal constitutional right to participate or vote where a conflict exists.³

What constitutes a conflict of interest is difficult to summarize. The body’s attorney should

always be consulted in advance of the meeting regarding a potential conflict of interest. In nearly all situations, the determination of a legally recognized conflict of interest will involve an evaluation of the particular facts surrounding the conflict, the form of decision pending before the body, and the potential for a vote to be entered notwithstanding a conflict of interest.

Recusal from participation due to a conflict of interest should be offered before the body *prior to* or at the *initial opening* of the matter on the agenda. The conflicted member, following declaration of recusal, shall leave the dais of the body and take a seat outside the meeting room for the entire consideration of the matter.

- ***A Motion is Not a Prerequisite to Discussion or Debate on a Matter.***

Oftentimes, discussion on a problem or proposition sets the basis or background that will lead to an appropriately stated motion. The basis or background more often enables the motion to be tailored to the viewpoints and comments offered during discussion offered prior to any motion. It is not infrequent that a hastily stated motion is later withdrawn or modified following discussion. As a result, efficiency is achieved by permitting motions to be made at an appropriate time which may be before, during, or following robust discussion or deliberation on a matter. Once a motion and a second are on the floor, the Mayor will offer the opportunity for final discussion prior to a vote of the body. This provides a clear record for the public and an opportunity for members to clearly state their positions, if desired.

¹ See *A Conflict-of-Interest Mandates Recusal from Voting*, below. ² Recusal is not the equivalent to abstention. Abstention is “the withholding of a vote;” whereas recusal is “the [removal] of oneself as judge or policy maker in a particular matter, especially because of a conflict of interest.” Black’s Law Dictionary (8th Ed. 2004). Abstention, if allowed, permits the member to participate in the proceeding and, prior to the vote, to make a declaration that the member will not vote for reasons often unstated, and which can include personal preference, indifference, lack of information, or possibly a perceived conflict of interest. In contrast, recusal precludes the member from participation in any aspect of the matter because to participate or to vote would subject the member or the member’s organization to liability. ³ *Nevada Commission on Ethics v. Carrigan*, 564 U.S. 117 (2011)

General Rules Governing the Meeting

Quorum Required. Per the City Charter, four members of Council shall constitute a quorum for the transaction of business at all meetings where a quorum is required. In the absence of a quorum, the Mayor, Mayor Pro Tem, or City Manager may announce that the meeting is continued due to lack of a quorum and such announcement may include the date, time, and place at which the meeting will be re-convened. In the event any meeting is adjourned to a later date, the City Manager shall prepare and cause to be delivered to each member of Council timely notice setting forth the date and hour to which such meeting has been continued. Any announcement of a continuation without a public announcement of the date, time, and place of the continued meeting shall require the issuance of new notice for any public hearings or other matters that require notice.

No Interruptions or Side Discussions. To maintain a clear recorded meeting record, only one person shall speak at any one time. Interrupting a person who has the floor or engaging in side-discussions while another person has the floor is out of order.

Second Required for Debate. While discussion may begin prior to a motion, all motions must receive a second before debate or discussion may begin on a particular motion. A second does not connote approval of the motion but only that the Member offering the second supports fuller discussion of the motion. The Member who makes the motion can amend or withdrawal a motion prior to a second.

Vote Requirement. A majority vote of the quorum is required for any motion unless a different requirement is set by applicable law.

Aye or Nay Vote Required. A vote of aye or nay (or another form of affirmative or negative declaration such as “yes” or “no”) shall be taken upon motions. Every Member, when present, must vote aye or nay unless:

- (1) The Member is excused by the Chairperson due to the Member’s declaration of a conflict of interest at the introduction of the agenda item or immediately upon discovery of a legally recognized conflict of interest; or
- (2) The Member is excused by the Chairperson because the member is without sufficient information upon which to enable an informed vote due to an absence at a prior meeting, e.g., the member did not attend the meeting for which meeting minutes are moved for approval.

Explanation of a Vote. If they desire, a member can explain why they are voting a certain way after a motion has been made and seconded and the chairperson has called for additional discussion.