

CITY OF SURPRISE
Regular City Council Work Session
16000 N. Civic Center Plaza
Surprise, AZ 85374
Tuesday, January 5, 2021 @ 4:00 PM
COUNCIL CHAMBERS



NOTICE: In an effort to protect health and safety of city employees, residents, and visitors, the Council Chambers will be closed to the public during this meeting. The public may access the meeting by viewing a live stream or broadcast of the meeting. To watch live, please visit www.surpriseaz.gov/surprisetv, the Surprise City Gov Facebook page at www.facebook.com/cityofsurprise. Cox channel 11 and Century Link channel 8513 will also carry the meeting live.

For instructions on how to comment on agenda items and public hearings, please go to <https://bit.ly/3kFsM6l>

- A. Call To Order
- B. Roll Call
- C. Pledge of Allegiance
- D. Proclamation and Community Acknowledgements
- E. City Manager Report
- F. City Clerk Report
- G. Call To The Public

Public comment will be taken through email or via phone. To submit email comments, including Call to the Public for non-agenda items, please email publiccomments@surpriseaz.gov. Comments for Call to the Public must be submitted prior to the start of the meeting. To comment on agenda items, emails must be submitted prior to the time(s) designated for public comment by the Mayor during the meeting or before the agenda item has otherwise concluded.

To comment live by phone for Call to the Public for non-agenda items or for agenda items, please call 623-222-1250 prior to, or during, the meeting to have your name placed on a callback list. If you reach voicemail, please leave your name and phone number. The City Clerk will call those wishing to comment from the dais during the meeting, and the call will be streamed through the Council Chamber audio system. Only calls received before Call to the Public for non-agenda items or before or during the time(s) designated for public comment by the Mayor during the meeting on the subject agenda item will be accepted and streamed. No calls will be accepted after the time(s) designated by the Mayor for public comment or after an agenda item has otherwise concluded.

H. Regular City Council Work Session Agenda

CONSENT AGENDA:

REGULAR AGENDA ITEM - PUBLIC HEARING:

REGULAR AGENDA ITEM - NON-PUBLIC HEARING:

- | | | |
|-------------|--|------------------------------------|
| 1. Citywide | Presentation and discussion of proposed Ordinance # 2021-02, an ordinance pertaining to establishing a Parade and Assembly Permit process. | None

Harold Brady
Police |
|-------------|--|------------------------------------|

- | | | | |
|----|----------|--|-----------------------------------|
| 2. | Internal | Consideration and discussion pertaining to proposed amendments to the City Council Policies and Procedures Manual. | None

Robert Wingo
Legal |
|----|----------|--|-----------------------------------|
- I. Other Business and Future Agenda Items
- J. City Council Reports
- K. Executive Session
- For information Purposes; Upon a public majority vote of a quorum of the City Council, the Council may hold an executive session, which will not be open to the public, but for only the following purposes:
- discussion or consideration of personnel matters (A.R.S. §38-431.03 (A)(1));
 - discussion or consideration of records exempt by law from public inspection (A.R.S. §38-401.03 (A)(2));
- L. Adjournment

SHERRY ANN AGUILAR, CITY CLERK, MMC

POSTED: December 31, 2020 at 1:40 PM

SPECIAL NOTE: PERSONS WITH SPECIAL ACCESSIBILITY NEEDS, INCLUDING LARGE PRINT MATERIALS OR INTERPRETER, SHOULD CONTACT THE CITY CLERK'S OFFICE @ 623.222.1200 OR TTY 623.222.1002, BY NO LATER THAN 24 HOURS IN ADVANCE OF THE REGULAR SCHEDULED MEETING TIME.



CITY OF SURPRISE Regular City Council Work Session

Council Meeting Date: January 5, 2021

Contact Person: Harold Brady, PS LEGAL
ADVISOR

Submitting Department: Police

District: Citywide

Staff Recommendations: None

Consent: No

Regular: No

Public Hearing: No

Report/Discussion: Yes

Agenda Wording:

Presentation and discussion of proposed Ordinance # 2021-02, an ordinance pertaining to establishing a Parade and Assembly Permit process.

Motion:

Discussion only.

Background:

The last year has seen a revival of citizen involvement in 1st Amendment activity. In addition, the growth of the City of Surprise has also seen a concurrent growth in the complexity of handling parades and assemblies. In order to better handle these events in a way that is lawful, protecting the rights of persons involved in parades and assemblies, while at the same time providing a mechanism by which the City has the ability to ensure the health and safety of participants, Surprise citizens, and their respective property are protected, and generally preserve the peace, an Ordinance establishing a permit process is being brought forward for City Council consideration.

Objective Analysis:

The ordinance implements a neutral, rational process for permitting events (parades and assemblies as defined) to keep both city property and city operations functional and accessible and ensuring the health and safety of individuals and their property is protected. The ordinance requires a permit to be obtained by event planners in order to lawfully conduct an event. The time required for the application for the permit is shortened as much as possible for 1st Amendment activity. The ordinance sets forth the reasons for which a permit may be denied or altered and appeal procedures for the event planners who disagree with such a decision.

In addition, the ordinance sets forth procedural guidelines for event planners to get to the City the information the City necessary to direct when and where events occur, should the requested permit present significant issues relative to one or more stated locations or routes; and, regulations for the conduct of persons involved in the parade as well as the authority to intervene in events when there is a significant public health, public welfare or safety reason to do so.

The requirements of the proposed ordinance are limited to only those necessary for the protection of a significant public health, public welfare or safety concern. No permit will be denied on an arbitrary or

capricious basis nor will the message, viewpoint, or expression of the participants be a consideration in the permitting process.

Policy Compliant:

It is the policy of the City to conduct operations in full compliance with the Constitution and laws of the United States as well as the State of Arizona. This ordinance is drafted to do exactly that. It protects the 1st Amendment rights of event participants while giving the City the authority to place reasonable time, place and manner restrictions, all in accordance with statutory and common law.

Financial Impact:

Processing the event permits will require the work of city staff, but it is believed such work will be accomplished within current staffing. Event permit fees will be minimal and designed to seek events remain as cost neutral to the City as possible.

Budget Impact:

There will be some internal costs generated by administering and enforcing the ordinance which will be absorbed into the current City Budget.

FTE Impact:

No FTE impact.

ATTACHMENTS:

1. 2020.12.28 Ord 2021-02 Protests and Parade permits rw revisions (003)
 2. Council Presentation Parades and Assemblies 210105rw
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ORDINANCE # 2021-02

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA, AMENDING SURPRISE MUNICIPAL CODE CHAPTER 26, DIVISION 2, DEFINITIONS, CHAPTER 34, ARTICLE V OFFENSES INVOLVING PUBLIC PEACE AND ORDER BY ADDING DIVISION 2 INTERFERENCE WITH TRAFFIC AND BUSINESS, AND CHAPTER 54 TRAFFIC AND VEHICLES BY ADDING A NEW ARTICLE VIII PARADES AND ASSEMBLIES; INCLUDING SEVERABILITY; REPEALING CONFLICTING ORDINANCES; ESTABLISHING AN EFFECTIVE DATE; AND REPEALING CONFLICTING ORDINANCES.

WHEREAS, the City, Arizona and the United States have seen a recent increase in participation in First Amendment activity, especially assemblies/parades ;

WHEREAS, the City of Surprise is growing quickly and this results in events becoming increasingly larger, complex and more difficult to administer and oversee; and

WHEREAS, the City desires to encourage and accommodate lawful First Amendment activity and parades, but also desires to do so in a manner that allows for appropriate oversight, the activities being carried out safely and the City retaining the ability to impose appropriate time, place and manner restrictions.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Surprise, Arizona, as follows:

Section 1. The definition of Special Event, found in Chapter 26, Division 2, Section 26-47, Definitions, is hereby amended to read as follows:

Special event means any fair, ~~parade, march, motorcade,~~ ceremony, show exhibition, ~~procession,~~ festival, street dance, circus, carnival, concert, performance, rodeo, organized race, seasonal/holiday sales lot or other temporary activity which invites public participation and patronage (with or without charge) whether held on public or private property. Special events do not include block parties or private events to which the public is not invited or allowed to participate OR PARADES OR ASSEMBLIES AS DEFINED BY CHAPTER 54.

Section 2. Chapter 34, Article V is hereby amended by adding a new Division 2 *Interference with Traffic or Business* as stated on Exhibit A and hereby incorporated by reference.

Section 3. Chapter 54 is hereby amended by adding a new Article VIII *Parades and Assemblies* as stated on Exhibit B and hereby incorporated by reference.

Section 4. All ordinances, resolutions or codes in conflict with the provisions of this Ordinance or Code adopted by this Ordinance are repealed.

Section 5. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of these amendments to the municipal code adopted herein is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision will not be read to affect the validity of the remaining portions thereof.

Section 6. This ordinance will become effective at the time and manner prescribed by law.

PASSED AND ADOPTED this _____ day of _____, 2021.

Skip Hall, Mayor

Attest:

Approved as to form:

Sherry Aguilar, City Clerk

Robert Wingo, City Attorney

ORDINANCE 2021-02
EXHIBIT A

DIVISION 2. INTERFERENCE WITH TRAFFIC OR BUSINESS

Section 34-134. Interference with city operations or business.

- A. No person shall interfere with, interrupt, or prevent city operations or city transaction of business on city property by:
 - 1. physically blocking ingress or egress from city building or facilities;
 - 2. Physically interfering with free movement of city staff or the public who are engaged in city operations or transacting city business.

34-135. Obstructing a street or sidewalk.

- A. As stated in Surprise Municipal Code Section 54-31, the police department has the authority to direct all traffic. It shall be unlawful for any person to stand upon, march, proceed along, or otherwise obstruct a street, highway or public way contrary to the direction of law enforcement or an event permit issued pursuant to Surprise Municipal Code, Chapter 54, Article VIII.
- B. It shall be unlawful to intentionally, knowingly or recklessly obstruct a vehicle's access to or through a street or highway except:
 - 1. in an emergency when necessary to prevent harm to a person and/or property and only so long as the emergency exists;
 - 2. pursuant to an event permit issued pursuant to Surprise Municipal Code, Chapter 54, Article VIII; or,
 - 3. with proper authorization through the Public Works Department.

ORDINANCE 2021-02
EXHIBIT B

ARTICLE VIII. PARADES AND ASSEMBLIES

Section 54-220. Purpose and Findings.

This Article establishes the procedures for the issuance of permits for events in the City of Surprise by which the City may exercise reasonable time, place, and manner restrictions. The purpose of this Article is to preserve and protect the public health and safety of the citizens of Surprise and event participants, avoid damage to property, and minimize disruption to the orderly and safe circulation of traffic, both pedestrian and vehicular, while at the same time preserving the rights of individuals to engage in expressive activities protected under the First Amendment.

The City Council finds that hazards to participants, vehicles and pedestrians increase when the free flow of traffic is impeded, but the necessary management of significant traffic congestion requires the use of police and possibly fire-medical resources, which decreases the availability of such resources for other duties. The City Council finds that pedestrian and vehicular safety on the streets, sidewalks, parks and other City property and rights-of-way, are affected by:

- the time, place, and manner of assemblies;
- the number of marchers and vehicles, both large and small, in a roadway;
- width and physical condition of streets, traffic lanes and sidewalks;
- vehicular speed limits and the known customary vehicle speeds;
- number and location of traffic control devices
- availability of emergency personnel along the route;
- weather conditions, especially those that may create hazardous conditions;

Section 54-221. Definitions.

The following terms, when used in this Article, shall have the following meanings:

"Assembly" means any stationary formation, or gathering of 25 or more participants for the purpose of Expressive Activity upon any public street, sidewalk, alley, rights-of-way, park, or other public place, or any stationary formation or gathering for purpose of Expressive Activity that does not comply with, or disrupts, normal or usual traffic regulations, controls, or movement regardless of the number of participants. This term does not include city/government activities or block parties, street festivals, carnivals or other street closures that fall under the purview of a special event permit as defined in Surprise Municipal Code Chapter 26.

"Closure of Streets" means the restriction of vehicular traffic to a roadway or portion thereof, and includes the manual control of traffic at intersections by police or other persons authorized to do so.

"Department" means the Community Development Department of the City of Surprise, which will administer the permit process under this Article.

"Event" means a Parade or Assembly, or both, which is the subject of a permit application under this section.

"Expressive Activity" includes conduct, the sole or principal object of which is the expression, dissemination or communication by verbal, visual, literary or auditory means of opinions, views, or ideas.

"Impacted Departments" means the Police Department, Fire-Medical, Public Works, the Risk Management Division of the City Attorneys Office, and any other city departments or personnel, as may be identified from time to time, whose consultation and involvement is necessary to ensure the preservation and protection the public health and safety of the citizens of Surprise and participants, avoid damage to property, and minimize disruption to the orderly and safe circulation of traffic during events.

"Parade" means any march or procession consisting of persons, animals or vehicles (motorized or not), or combination thereof, upon any public street, sidewalk, alley or other public place, which does not comply with, or disrupts, normal or usual traffic regulations, controls, or movement. This term does not include city/government activities, funeral processions, or activities that fall under the purview of a Special Event permit as defined in Surprise Municipal Code Chapter 26.

Section 54-222. Permit required; Interference with a Permitted Event; Constitutional Provisions.

- A. A permit is required for an Event. No person shall conduct, manage or sponsor any Event without, or contrary to the terms or conditions of, a written permit issued by the City. No person shall participate in any Event with the knowledge that its sponsor has not been issued the required permit.
- B. No person shall knowingly join or participate in any Event conducted under permit in violation of any of the terms of the permit, or knowingly join or participate in any permitted event without the consent and over the objection of the permittee, nor in any manner interfere with the progress or orderly conduct of a permitted Event.
- C. No permit requested under this Article shall be denied, revoked or modified, and no restrictions shall be imposed, due in whole or in part, to the contents of statements or viewpoints expressed by the event participants. The City may

impose those reasonable and content neutral time, place, and manner restrictions authorized by this ordinance to the extent such restrictions are consistent with the Arizona state and United States constitutions.

Section 54-223. Permit application and process.

- A. Written applications for permits should be submitted to the Department at least 15 business days prior to the date of the requested event. However, all applications for permits may be acted upon by the Department so long as they are received by the Department not less than seven days before the date of the requested Event. The seven day time limitation may be waived by the Department if the occurrence giving rise to the permit application did not reasonably allow the applicant time to file within the time prescribed, imposition of the time limitation would place an unreasonable restriction on the right to free speech, and it is affirmatively determined that the city is able to mobilize resources sufficient to prevent an unreasonable traffic hazard or danger without unduly hindering the city from providing other necessary municipal services.
- B. An application will be accepted by the Department only if it is fully completed, legible, and is accompanied by payment of the permit application fee. The permit application fee is a nonrefundable fee to be paid by the applicant at the time the permit application is submitted. The amount of the fee will be set from time to time by resolution of the City Council. The fee will be used to defray the direct costs of processing and investigating the event application.
- C. An application for a permit shall be electronically submitted on the form approved by the Department and shall, at a minimum, contain the following:
 - 1. The name, address, and telephone number of the applicant, the organizer or sponsoring organization;
 - 2. The specific date(s) of the Event, including date(s) for set-up and tear down;
 - 3. The starting and ending times;
 - 4. The exact location of the assembly and disbanding areas, indicating the particular portion of a street, corner of an intersection, portion of private property or park area, etc., if appropriate;
 - 5. The exact route and direction of travel of the Event;
 - 6. The portion of the street needed for the Event;
 - 7. The total number and type of bands, marching units, vehicles, animals, structures, or other elements/props which will be used in the Event;
 - 8. The estimated number of participants and spectators expected at the Event;
 - 9. A description of any sound amplification equipment which will be used in the Event;

10. the number of floats, if any, which will be used in the Event and their size, type and method of power;
11. The cleanup activities planned; and
12. The parking contingencies planned.

D. Upon receipt of the complete application and permit application fee, the Department shall:

1. Notify and transmit a copy of the application to the Impacted Departments. This notification and transmittal shall be for the purpose of identifying any logistical or public safety issues surrounding the granting of a particular application.
2. Establish a timeframe under which all Impacted Departments which have received a copy of the application must respond with comments, objections, recommendations, and any additional time, place, and manner conditions consistent with this Article. Failure to respond to the Department by the established timeframe will be considered a recommendation for approval with no additional conditions.
3. Rely on the recommendations of, and include any additional time, place, and manner conditions identified and requested by, the Impacted Departments when administering the permit process. The Department will not issue a permit unless all Impacted Departments have recommended approval and any additional conditions are included and accepted by the applicant.

Section 54-224 Action on Application

A. Recommendations of Impacted Departments.

(1) If the recommendation of the Impacted Departments is to approve the application without additional conditions or with conditions to which the applicant agrees, the department will approve and issue the Event permit.

(2) If the recommendation of the Impacted Departments is to deny the permit or approve the application with conditions to which the applicant disagrees, then the contested conditions or grounds for denial shall be set forth in writing by the Department and a copy shall be provided to the applicant.

B. Conditions to Issuance of Permit. The Department, in consultation with, and consideration of the recommendations of, the Impacted Departments, may condition the issuance of a permit by imposing reasonable requirements concerning the time, place, and manner of the Event, as necessary to protect the safety of all persons and property, provided that the conditions shall not

unreasonably restrict the right of free speech. These conditions include, but are not limited to:

1. Alteration of the date or time of the Event proposed on the application;
2. Alteration of the location of the assembly, route of the parade, and/or the area and manner of assembling and disbanding of the Event;
3. Accommodation of pedestrian or vehicular traffic, including restricting the Event to only a portion of a street or highway;
4. Compliance with all ordinances or laws and obtaining all legally required permits or licenses;
5. Requirements for the training and use of volunteers, monitors, parade officials or event Participants;
6. Restrictions on the number and type of vehicles, animals, or structures at the Event, and prior inspection and approval of floats, structures, and decorated vehicles for fire safety by the Surprise Fire-Medical Department;
7. Requirements for the use of garbage containers, cleanup, and restoration of City property;
8. Requirements for providing notice of permit conditions to volunteers, monitors, parade officials, and Event participants;
9. Requirements for providing a certain specified number of Event officials or volunteers to ensure a safe and expeditious Event;
10. Requirements for the provision of adequate first aid and sanitary facilities;
11. Requirements for the use of amplification devices or amplified sound;
12. Requirements to provide proof of automobile insurance (where the event involves the operating of vehicles, including motorized floats, upon the streets or highways).

C. Grounds for Denial of Application, Revocation, or modification of a Permit.

1. The Department shall approve an application for a permit unless it determines after consideration of the application and consultation with, or recommendations of the Impacted Departments, the existence of any of the following, any of which shall also be justification for the Department to revoke or modify a previously issued permit:

- a. Information contained in the application, or supplementary information requested from the applicant, is false in any material detail;
- b. The applicant failed to provide a complete application after being notified of the requirement of producing additional information or documents;
- c. The Event will interfere with another Event, street closure or other activity for which a permit has previously been granted;

- d. The concentration of persons, animals and/or vehicles at the site of the event, or at the assembly and disbanding areas, will prevent proper police, fire, ambulance, or other public services to areas contiguous to the event;
- e. The time, route or size of the Event will disrupt to an unreasonable extent the safe and expeditious movement of traffic contiguous to the event site or route, or unreasonably disrupt the use of a street or highway when it is usually subject to great traffic congestion;
- f. The size or duration of the Event will require the diversion of so great a number of police officers or other personnel of the City that providing the minimum level of police services or other services to other areas of the City is jeopardized. Nothing in this paragraph authorizes denial of a permit because of the need to protect Event participants from the conduct of others;
- g. The Event will substantially interfere with any construction or maintenance work scheduled to take place upon or along the affected City streets or highways, or a previously granted encroachment permit;
- h. The parade will not move from its point of origin to its point of termination in five hours or less;
- i. The length of the parade route exceeds 3 miles from its point of origin to its point of termination;
- j. Conditions or traffic hazards that could not have been anticipated at the time the permit was issued require the modification of the parade;
- k. Conditions and circumstances at the time and location of the parade or assembly are substantially different than those described in the application and as a result a term or terms of the permit are either unnecessary or inadequate;
- l. The applicant fails to conduct the Event in accordance with the information contained in the permit application, or any terms and conditions imposed on the issued permit;
- m. The Event is proposed to be held for the sole purpose of advertising any product, goods, wares, merchandise or event, or is designed to be held purely for private profit; or
- n. Disaster, public calamity, riot or other emergency.

D. When the grounds for denial of the application for a permit can be corrected by altering the time, place and/or manner of the Event as authorized by Subsection B, the Department shall, instead of denying the application, conditionally approve the application provided the applicant accepts such conditions for permit issuance. Initial acceptance by the applicant may be informal, with formal acceptance memorialized in the permit. The

conditions imposed shall provide for only such modifications of the applicant's proposed event as are necessary to achieve compliance with this subsection.

E. Each permit shall specify:

1. The Assembly area and time therefor;
2. The start time;
3. The minimum and maximum speed;
4. The route of the Parade or motorcade;
5. What portions of streets to be traversed may be occupied by such parade or motorcade;
6. The maximum number of platoons or units and the maximum and minimum intervals of space to be maintained between the units of such parade or motorcade;
7. The maximum length of such parade or motorcade in miles or fractions thereof;
8. The disbanding area, and disbanding time;
9. The number of persons required to monitor the event;
10. The number and type of vehicles, if any;
11. The material and maximum size of any banner, placard or carrying device therefor;
12. That the materials used in the construction of floats used in any Parade shall be of fire-retardant materials and shall be subject to such requirements concerning fire safety as may be determined by the Fire-Medical Department;
13. That permittee shall advise all participants in the Event, either orally or by written notice, of the terms and conditions of the permit prior to the commencement of such Event;
14. That amplification of sound permitted to be emitted from sound trucks or bullhorns be fixed and not variable;
15. That the parade or motorcade continues to move at a fixed rate of speed and that any willful delay or willful stopping of said Parade or motorcade, except when reasonably required for the safe and orderly conduct of the Parade or motorcade, shall constitute a violation of the permit; and
16. Such other requirements as are found by the Department to be reasonably necessary for the protection of persons or property;
17. Signed acknowledgement and acceptance by the applicant by all terms and conditions contained in the permit.

- F. The granting of an Event permit pertains only to the Event and does not authorize any activity for which a separate permit is required.

Section 54-224 Appeal Procedure.

- A. Right to Appeal. The applicant shall have the right to appeal a denial of a permit application or any permit conditions imposed upon an Event.
- B. Notice of Appeal. A notice of appeal stating the grounds for the appeal shall be filed with the City Clerk no later than three business days after delivery of the denial of the application or contested/disputed permit conditions.
- C. Hearing by City Manager. If an applicant files a timely notice of appeal, the City Manager, or their designee, shall conduct an informal hearing on the appeal. The City Manager, or their designee, shall render a decision at the hearing unless the permit applicant agrees to a continuance. The decision of the City Manager/designee is final.

Section 54-225. Parking on event route

The City may prohibit or restrict the parking of vehicles along a street or part thereof constituting a part of the route of an event. The City shall post signs 24 hours in advance to such effect, and it is unlawful for any person to park or leave unattended any vehicle in violation of the signs and such a vehicle may be towed and impounded if its removal is necessary for the event to be safely conducted.

Section 54-226. Carrying or Possessing Certain Items Prohibited

- A. No person shall carry or possess the following items or articles while attending or participating in any event:
1. Any length of lumber, wood, or wood lath unless that object is $\frac{1}{4}$ inch or less in thickness and 2 inches or less in width, or if not generally rectangular in shape, such object shall not exceed $\frac{3}{4}$ inch in its thickest dimension. Both ends of the lumber, wood or wood lath shall be blunt;
 2. Any length of metal or plastic pipe, whether hollow or solid; provided, however, that hollowing plastic piping not exceeding $\frac{3}{4}$ inch in its thickest dimension and not exceeding $\frac{1}{8}$ inch in wall thickness, and not filled with any material, liquid, gas or solid may be used solely to support a sign, banner or placard, puppet or other similar expressive display. Both ends of any plastic pipe permissible under this subsection shall be blunt;
 3. Signs, posters, banners, plaques or notices, whether or not mounted on a length of material permitted under Subdivisions 1 or 2 of this section, unless such sign, poster, banner, plaque or notice is constructed solely of

- soft material, such as cloth, paper, soft plastic capable of being rolled or folded, or cardboard material no greater than ¼ inch in thickness;
4. Baseball or softball bats, regardless of composition or size; provided however, that such items are permissible when configured of cloth, cardboard, soft plastic, foam or paper for expressive purposes;
 5. Any aerosol spray, tear gas, mace, pepper spray or bear repellent;
 6. Any projectile launcher or other device, such as a catapult or wrist rocket, which is commonly used for the purpose of launching, hurling or throwing any object, liquid, material or other substance, whether through force of air pressure, spring action or any other mechanism;
 7. Weapons such as knives, swords, sabers or other bladed devices, axes, hatchets, ice picks, razor blades, nunchucks or martial arts weapons of any kind, box cutters, pellet or BB guns, conducted electrical weapons (CEWs), including, but not limited to, Tasers or stun gun, metal/composite/wooden knuckles, or any chain greater than 20 inches in length or greater than ¼ inch in diameter. This subdivision also includes toy or replica firearms unless such toy or replica is florescent colored or transparent;
 8. Balloons, bottles or any other container such as water cannons or super-soakers, filled with any flammable, biohazard or other noxious matter which is injurious, or nauseous, sickening or irritating to any of the senses, with intent to throw, drop, pour, disperse, deposit, release, discharge or expose the same in, upon or about any demonstration, rally, protest, picket line or public assembly;
 9. Glass bottles, whether empty or filled;
 10. Open flame torches, lanterns or other devices that utilize combustible materials such as gasoline, kerosene, propane or other fuel sources;
 11. Shields made of metal, wood, hard plastic or any combination thereof;
 12. Bricks, rocks, pieces of asphalt, concrete, pellets or ball bearings;
 13. Fireworks as defined by state law.
- B. When feasible, excluding exigent circumstances, a warning shall be issued before enforcement of the provisions of this section. Such warning shall be sufficient if provided orally, by posted signs or by amplified announcement.
- C. Authorized peace officers, or employees, agents or representatives of the City shall be exempt from the provisions of this section when such officers, employees, agents or representatives of the City are engaged in official business of the City.
- D. Nothing in this section shall prohibit an individual from carrying a cane or using a walker or other device necessary for providing mobility so that the person may

participate in an Event. Further, nothing in this section shall prohibit the imposition of special conditions for activities expressly authorized under an Event permit issued by the City of Surprise.



Parade and Assembly Ordinance

Police and Community Development

Background



- This last year has seen a great increase in the number of persons exercising their free speech rights; a very few of them have done so in a manner causing harm to others and/or property damage
- The City of Surprise is growing and, as it grows, the community events and exercises of expressive activity will grow in size and number

Background



These two items have made clear that the City needs to adopt an ordinance which protects the rights of those persons using the City's streets and public property as well as providing the City the ability to place appropriate time, place and manner restrictions on those uses of City property

Ordinance Overview



- Section 1 of the ordinance helps draw the line between a “Special event” and an “event” under this ordinance
- The first part of the attachment to the ordinance is a couple of sections dealing with conduct of persons when exercising their free speech rights
- The second part of the attachment to the ordinance is several sections dealing with the requirement to obtain a City permit before using City property for speech or other purposes, procedures for the processing of that permit application and regulations for the activities authorized by the permit

Conduct Regulations



- 34-134 Interference with City operations
 - Prohibits blocking entrances to city facilities
 - Prohibits interfering with movement of city staff
- 34-135 Obstructing street or sidewalk
 - Prohibits blocking street or sidewalk without a parade permit, public works authorization or an emergency

Parade Permits



- 54-220 Purpose and Findings
 - Desire to allow the exercise of speech and parade rights while minimizing disruption to traffic and risk of injury or property damage
 - Management of these events decreases the availability of public safety resources
 - Several factors are enumerated which impact the safety of users of the streets and sidewalks

Definitions – 54-221



- Of most importance is that the definition of “event” includes an assembly, a parade or something which constitutes both. So, the use of public property for an assembly and/or for a parade both must go through this permit process.
 - The event needs to be permitted because it is negatively impacting the use of public property by others or creates a health or safety issue.

54-222 Protection of free speech



Permit issuance or denial will not be impacted by message or viewpoint of the applicants but will be based upon reasonable and neutral time, place and manner restrictions.

54-223 Permit Required



By requiring a permit for both assemblies and parades, it ensures that we will have advance warning of any uses of public property that will cause concerns such as possible traffic disruptions, public safety concerns, and/or neighborhood concerns.

54-223 Initial Permit Review



The permit application will be filed with the Community Development Department

- The Community Development will distribute the permit to other departments as appropriate for their insight and recommendations, especially relative to reasonable time, place and manner restrictions
- It will give those other departments a response time period, gather the responses and then communicate with the applicant

54-224 Action on Application



- The Community Development Department will communicate to the applicant whether the permit will be issued, if there will be conditions or whether the application is denied.

54-224(C) and (D) Permit Denial



- Possible grounds for denial of a permit or for offering the applicant approval subject to meeting application conditions
- Elements which must be contained in a permit are specified in 54-224(E) including a signature of agreement by the applicant

54-224 Appeal Process



To protect rights, especially free speech rights, appeal procedures are specified and the final determination will be made the City Manager or designee, someone not involved in the original application review.

54-225 Event Route Parking



- This section is added to give the City the authority to create an event route that is reasonably safe
- After proper notice, as specified in the section, a vehicle may be impounded when necessary for event safety

54-226 Items Prohibited



- This section prohibits possessing any of the specified items as they create safety risks to event participants and others in the surrounding area
- Note that firearms are not prohibited



Comments & Questions

Thank you!



CITY OF SURPRISE Regular City Council Work Session

Council Meeting Date: January 5, 2021

Contact Person: Robert Wingo, CITY
ATTORNEY

Submitting Department: Legal

District: Internal

Staff Recommendations: None

Consent: No

Regular: Yes

Public Hearing: No

Report/Discussion: No

Agenda Wording:

Consideration and discussion pertaining to proposed amendments to the City Council Policies and Procedures Manual.

Motion:

Discussion only.

Background:

At the September 15, 2020, regular City Council Meeting, Mayor Hall directed the Rules Committee to meet, review the City Council Policies and Procedures Handbook, and bring before City Council any recommended revisions to that document.

The Rules Committee met publicly on September 24 and October 19 to review, discuss, and make recommendations to the Council policy. In general, the Committee recommended the following changes:

- 1) Amend Rules 4 through 8 by condensing those sections and removing redundant provision;
- 2) Clarify obligations under Rule 6 advocacy and designate the Mayor as official spokes person for official city positions;
- 3) Rule 8 to expressly identify compliance with the "Council manager form of government" consistent with City Code;
- 4) Align the definition of relative in Rule 9 with the state law definition; and
- 5) Remove in applicable and impractical provisions pertaining to Council's discretionary funds and ensure compliance with law.

In addition, the City Attorney drafted language to address on-going issues with social media accounts, vetted the new provision with the Rules Committee, and inserted the new provision under Rule 5, Transparent Governance, for consideration by Council as a whole.

Objective Analysis:

This item will provide City Council with the opportunity to consider potential updates, as appropriate, to its own policies and procedures.

Policy Compliant:

The current policy requires that every other year the Council Policies and Procedures be reviewed and recommendations and updates be considered by City Council.

Financial Impact:

N/A

Budget Impact:

N/A

FTE Impact:

N/A

ATTACHMENTS:

1. 20.09.30 Council Policies and Procedures Sept 30 2020 (002)
-

PROLOGUE

We will never bring disgrace on this our City by an act of dishonesty or cowardice.

We will fight for the ideals and sacred things of the City, both alone and with many.

We will revere and obey the City's laws, and will do our best to incite a like reverence and respect in those above us who are prone to annul them or set them at naught.

We will strive increasingly to quicken the public's sense of civic duty.

Thus, in all these ways, we will transit this City, not only, not less, but greater and more beautiful it was transmitted to us.

-The Athenian Oath

INTRODUCTION

Residents of the City of Surprise are entitled to have fair, ethical and accountable local government that has earned the public's full confidence and trust. Excellence in local governance requires that public officials comply with the letter and spirit of the laws and policies affecting the operations of government. It requires that every official be independent and impartial in matters brought before them. Effective local government requires that each public office be used for the good of the public and not for personal gain. Transparent local government demands that deliberations and discussions be conducted openly, unless legally confidential, in an atmosphere of respect and civility.

Notwithstanding the standards, requirements, and prohibitions set forth within this Policy, the United States and Arizona Constitutions, as the supreme laws of the land, guarantee to all, not excluding elected officials, certain protections, rights, and privileges. Therefore, nothing in this Policy shall be interpreted or applied in a manner which infringes or impairs any elected official's protections, privileges, or rights guaranteed by the respective Constitutions or any federal or state laws adopted under the authority of same.

RULES OF CONDUCT AND Demeanor

Elected and appointed officials are often called upon to make decisions that affect various groups and individuals. Balancing diverse constituent interests can be a difficult task. While someone may be disappointed in a decision, officials must adhere to ethical standards that eliminate disappointment borne of dishonesty, conflicts of interest, unfairness, or illegality. **Preservation of public trust is critical for the preservation of democracy.**

It is the policy of the City of Surprise to uphold, promote, and demand the highest standards of ethics from all of its officials, whether elected or appointed. Accordingly, all members of the City Council will maintain the following standards:

Rule 1. Act in the Public Interest

Recognizing that stewardship of the public interest must be their primary concern, members will work for the common good of the City of Surprise and not for any private or personal interest, and will assure fair and equal treatment of all persons, claims and transactions coming before the Surprise City Council.

Rule 2. Comply with the Law

Members will comply with the laws of the nation, the State of Arizona, and the City of Surprise in the performance of their public duties. These laws include, but are not limited to: the Federal and State constitutions; laws pertaining to conflicts of interest, election campaigns, financial disclosures, anti-discrimination, confidentiality/non-disclosure laws, and open meeting; City ordinances; and City and City Council policies.

Rule 3. Professional Conduct

The professional and personal conduct of members must be above reproach and devoid of even the appearance of impropriety. Members must refrain from abusive conduct, harassment, personal charges or verbal attacks upon the character or motives of other members of Council, boards, commissions, and committees, City staff or members of the public. Likewise, Honesty and integrity shall be the primary values exercised in resolving all issues.

~~Rule 4. Respect for Process~~

~~Members must perform their duties in accordance with the processes and rules of order established by the City Council governing the deliberation of public policy issues, meaningful involvement of the public, and implementation of policy decisions of the City Council by City staff.~~

Rule ~~4~~5. Conduct of Public Meetings

Members have an obligation to attend meetings, be prepared, and act in accordance with the processes and rules of order established by City Council. Members are expected to review the materials, participate in discussions and make an informed decision on the merits of the issue. Members must prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand. Members must act courteously, refrain from interrupting other speakers, making personal comments not germane to the business of the body, or otherwise interfering with the orderly conduct of meetings.

~~Rule 6. Decisions Based on Merit~~

~~Members must base all decisions on the merits and substance of the matter at hand.~~

Rule ~~5~~7. Transparent Governance

Members must publicly ~~disclose~~share substantive information that is relevant to a matter under consideration by the Council which the member may have received from sources outside the public decision-making process.

Members are increasingly using social media to share information with the public and as a forum to facilitate the public's ability to communicate with them about matters relating to City governance. However, numerous laws and legal obligations are implicated, and legal issues arise, when members utilize social media accounts to carry out their official duties or engage in city business. These legal issues become even more pronounced when members conduct official city business on personal or private social media accounts.

Therefore, in order to ensure social media accounts are administered uniformly, to the highest standards, and in compliance with all laws and legal obligations, the City will create and maintain official social media accounts for use by members in connection with their official duties. Once an official account is created on any given platform, members will not use a personal or private social media account on that platform for official purposes, conducting city business, or performing their duties as a council member. For example, members will not use personal or private social media

accounts to make announcements about official responsibilities, actions, or events, discuss city business, solicit comments or input from the public on city matters, or distribute official city notices or information. Members' personal or private social media account designs will not utilize official city logos, graphics, pictures, or material that would reasonably mislead the public to believe it is an official city account.

Rule 68. Advocacy

Members of the City Council are frequently contacted by the media for background and quotes. The Mayor is the designated representative of the Council to present and speak on the official City position. Members must represent the official policies or positions of the City Council to the best of their ability ~~if~~when designated as delegates for this purpose. When presenting their individual opinions and positions, members must ~~explicitly state that the member does not represent the City of Surprise or its Council, and may not allow or perpetuate~~ the inference or misperception of official City ~~such~~ representation to exist. Until and unless the Mayor and Council take an **official** position on an issue as a collective public body in a public meeting, any statements or written correspondence should reflect clearly that the position taken is that of the individual in his/her personal capacity. Members should never go "off the record" when making statements and are cautioned to choose words carefully and cautiously. Comments may be taken out of context resulting in unintended issues.

Rule 79. Policy Role of Members

The Role of each Member, as an individual, is to represent the community and to share their ideas, recommendations, and point of view forward during consideration of matters before the body. Members must respect and adhere to the Council-manager structure of the Surprise City government as outlined in City Code. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by the public, boards, commissions, committees and City staff. Members therefore may not interfere with the administrative functions of the City or the professional duties of City staff; nor impair the ability of staff to implement Council policy decisions. Members should also refrain from individually directing the City Manager in the performance of his/her job responsibilities.

Rule 810. Positive Work Place Environment

Members must support and maintain a positive and constructive work place environment for City employees, residents, and businesses dealing with the City. Members must recognize the special role of the Council in dealings with City employees and refrain from ~~creating the perception of inappropriate directing to~~ staff other than the City Manager pursuant to the Council Manager form of government.

Rule 911. Conflict of Interest

Members must be constantly on guard against conflicts of interest, whether real or perceived. Officials must not be involved in discussing or deciding any issue over which the Council may have jurisdiction and which may impact a financial or property interest of either the member or a

~~member's relatives family member~~ (relatives means the spouse, children, parent, grandparent, grandchildren, siblings of whole or half blood and their spouses and in-laws).

If a member believes that a conflict of interest (or even a possible conflict) exists, then the member must disclose the fact as soon as possible on the record. From that point on, the member may not participate in any manner (by discussing, questioning or voting) in that matter. Declaring a conflict and not participating should be recognized as a necessary part of preserving public trust and should not be avoided simply because of delays or inconvenience. Indeed, members should declare possible conflicts to avoid any appearance of impropriety.

Rule ~~1012~~. Accepting Gifts, Favors or Benefits

The acceptance or solicitation of gifts, favors or benefits by a member in their official capacity should be avoided. "Gifts, favors or benefits" include event tickets, admission, meals, products, autographs, memorabilia, special celebrity access, and travel expenses, but does not include de minimus tokens of appreciation or for participation such as a pen, pin, plaque of appreciation or award. Gift, favor, or benefit does not include City sponsored or hosted events, or event tickets/admission given to a member when such is necessary for the member to perform the member's function as a Council member.

Generally, Arizona law prohibits a Council member from receiving anything of value or any compensation other than the normal salary for any service rendered in connection with that person's duties with the City, or using or attempting to use the position on Council to secure anything of value or benefit. See A.R.S. §§38-504 and 38-505.

The acceptance and, specifically, the solicitation of gifts, benefits or favors either for the member or the member's family or friends, even if not technically in violation of law, will raise the appearance of impropriety. The member should also not accept or solicit any gift, benefit or favor when such would be advantageous to their political/career aspirations.

Members must recognize, and avoid at all costs, the appearance of impropriety. When a member does receive a gift, benefit, or favor, as defined above, in either (a) the member's capacity as an elected official (a non-personal gift), or (b) from parties with business before the City or which may come before the City; and when the value of such individually or combined will all gifts, benefits, or favors received in a 24 hour period, has a market value of \$50 or more, the member must disclose such in writing. Written disclosure of any gift, benefit, or favor must be made to the City Clerk within 10 business days after receipt and must include a description of the gift, benefit, or favor, the estimated value, the date of receipt, and the source. The disclosure of gifts will be posted on the City's web page along with the member's financial disclosure statements. Under no circumstances may a member accept a gift, benefit or favor that can be construed to be a bribe or reflects to a reasonable person an effort to influence the member contrary to that member's responsibility to the public to act impartially and on the merits of a matter. The acceptance of such gifts or benefits should be in the best interest the parties involved should the transaction be publicized, i.e. how would it look to the public ("headline test"). If the publication of the transaction would make any of the parties involved uncomfortable, it is likely not appropriate.

Examples of items that are not gifts, favors, or benefits include: City event access passes (e.g. spring training passes); dinner tickets received as part of a conference paid for by the member as an individual or by the City; a plaque of appreciation given the member by a civic/community organization; access to celebrities attending the same event as a member; access to an event utilized for various public relations purposes such as building relationships with residents regarding City purpose and business, promoting business or other opportunities in Surprise, promoting relationships with other municipalities, or promoting corporate partnership and development.

Examples of items that are gifts, favors, or benefits that must be disclosed include: tickets to a sporting event given by a developer doing business in Surprise; sports equipment/clothing given by a vendor, contractor, developer, etc. doing business in Surprise; a series of meals and small gifts given over 24 hours the aggregate value of which is \$50 or more.

In the event of uncertainty, contact the City Attorney.

PARLIAMENTARY PROCEDURE

Surprise Municipal Code §2-80 provides that “the latest standard edition of Robert’s Rules of Order will serve as a guide for parliamentary procedure...”. In furtherance of such guidance, the parliamentary rules outlined below will be followed in all City Council Meetings, keeping the following principles:

1. The Council must act as a body.
2. The Council should proceed in the most efficient manner possible.
3. The Council must act by at least a majority.
4. Every member must have an equal opportunity to participate in decision making.
5. The Council’s rules of procedure must be followed consistently.
6. The Council’s actions should be the result of a decision on the merits and not a manipulation of the procedural rules.

Rule 1. Powers of the Chair

The Chair (usually the Mayor) has the following powers:

- a) To rule motions in or out of order, including any motion patently offered for obstructive or dilatory purposes;
- b) To determine whether a speaker has gone beyond reasonable standards of courtesy in his or her remarks and to entertain and rule on objections from other members on this ground;
- c) To entertain and answer questions of parliamentary law or procedure;
- d) To call a brief recess at any time;

- e) To adjourn in an emergency.

Comment: *A decision by the Chair under (a), (b) or (c) may be appealed to the Council upon motion of any member, pursuant to Rule 8(b). Such a motion is in order immediately after a decision under (a),(b) or (c) is announced and at no other time. The member making the motion need not be recognized by the presiding officer, and the motion if timely made may not be ruled out of order.*

Rule 2. Consent Agenda

The Council may designate a part of the agenda as the “consent agenda.” Items are placed on the consent agenda if they are judged to be noncontroversial and routine. Any member may remove an item from the consent agenda and place it on the regular agenda when the consent agenda comes forward for action and can be revised prior to its adoption. All items on the consent agenda must be voted on and adopted by a single motion, with the minutes reflecting the motion and vote on each item.

Comment: *Many Councils use a consent agenda as a device to handle routine business more quickly. As a general rule, ordinances, controversial items, matters in which citizens may be interested, and matters of great substance will not be included on the consent agenda.*

The Council reviews the “consent agenda” at the beginning of each meeting. Each member is free to remove items from the consent agenda to the regular agenda. A member may wish to do so if, for example, he or she would like to debate the proposal or vote against the item.

Rule 3. When the Chair Is in Active Debate

If the Chair becomes actively engaged in extended debate on a particular proposal, the Chair may designate another member to preside over the debate. The Chair will resume presiding as soon as action on the matter is concluded.

Comment: *Good leadership depends, to a certain extent, on not taking sides during a debate. On a small board this may not always be feasible or desirable; yet, an unfair advantage accrues to the side whose advocate controls access to the floor. This rule is designed to ensure even-handed treatment to both sides during a heated debate. Ordinarily, if the Chair is leading the meeting, he or she should ask the Vice Chair to preside in this situation. But, if that person also engaged in the debate, the Chair should feel free to call on some other member in order to achieve the purpose of this rule.*

Rule 4. One Motion at a Time

A member may make only one substantive motion at a time.

Comment: *None.*

Rule 5. Substantive Motions

A substantive motion is a motion to take action on the principal item and is out of order while another substantive motion is pending. In other words, a substantive motion is any motion other than the procedural motions listed in Rule 8. A substantive motion may deal with any subject

within the Council's legal powers, duties, and responsibilities.

Comment: *This rule sets forth the basic principle of parliamentary procedure that distinct issues will be considered and dealt with one at a time, and a new proposal may not be put forth until action on the preceding one has been concluded. The term substantive motion is used here to underscore the distinction between this type of motion and the various procedural motions listed in Rule 8.*

Rule 6. Debate

The Chair will state the motion and then open the floor to debate on it. The Chair will preside over the debate according to the following general principles:

- (a) The maker of the motion is entitled to speak first;
- (b) A member who has not spoken on the issue will be recognized before someone who has already spoken;
- (c) To the extent possible, the debate will alternate between proponents and opponents of the measure.

Comment: *None.*

Rule 7. Ratification of Actions

To the extent permitted by law, the Council may ratify actions taken on its behalf but without its prior approval. A motion to ratify is a substantive motion.

Comment: *Ratification of actions taken on the Council's behalf but without its prior approval is permitted under these rules, to the extent that such after-the-fact approval of actions is legally allowed. The principle behind the motion to ratify is that an assembly may subsequently approve what it could have authorized. This rule treats the motion to ratify as a substantive proposal rather than as a procedural motion, since a ratification is in effect an after-the-fact substantive action by the Council concerning something that was done without Council approval when advance authorization should have been obtained. For example, if the City enters a contract that would normally have been approved by Council prior to the City entering the contract, but the circumstances were such that prior Council approval was not possible, Council can approve the contract after the fact under this rule.*

Rule 8. Withdrawal of Motion

A motion may be withdrawn by the maker at any time before it is amended or before the Chair puts the motion to a vote, whichever occurs first.

Comment: *This rule prohibits withdrawing motions after they have been amended. Once a motion has been amended, it is no longer the same motion as was made by the maker, so it is no longer his or hers to withdraw.*

Rule 9. Procedural Motions

(a) Motions Allowed. In addition to substantive proposals, only the following procedural motions, and no others, are permitted. Unless otherwise noted, each motion is debatable, may be amended, and requires a majority of the votes cast, a quorum being present, for adoption.

Procedural motions are in order while a substantive motion is pending and at other times, except as otherwise noted.

Comment: *The following enumeration of procedural motions is exhaustive; if a procedural option is not on the list, then it is not available. Procedural motions are frequently used to “act upon” a substantive motion by amending it, delaying consideration of it, and so forth. Several procedural motions can be entertained in succession without necessarily disposing of the previous procedural motion. The order of priority establishes which procedural motion yields to which—that is, which procedural motion may be made and considered while another one is pending.*

(b) Order of Priority of Motions. In order of priority (if applicable), the procedural motions are:

Motion 1. To Appeal a Procedural Ruling of the Chair. A decision of the Chair ruling a motion in or out of order, determining whether a speaker has gone beyond reasonable standards of courtesy in his or her remarks, or entertaining and answering a question of parliamentary law or procedure may be appealed to the Council. This appeal is in order immediately after such a decision is announced and at no other time. The member making the motion need not be recognized by the Chair and the motion, if timely made, may not be ruled out of order.

Comment: *This motion allows the ruling of the Chair on certain procedural matters to be appealed to the whole Council. This appeal must be made as soon as the Chair’s decision is announced, so this motion is accorded the highest priority.*

Motion 2. To Adjourn. This motion may be made only at the conclusion of Council consideration of a pending substantive matter; it may not interrupt deliberation of a pending matter. A motion to or adjourn ends the current meeting to a time and place certain and establishes a specified time and place for the meeting to reconvene.

Comment: *Since the number of members is small and procedures are available to limit debate, Motion 2 allows both debate and amendment, but specifies the motion is in order only when consideration of a pending matter has concluded. If the Council wants to adjourn before completing final action on a matter, it must, prior to adjourning, first temporarily conclude its consideration of that matter. This is done with one of three motions: to defer consideration of the matter, to postpone the matter to a certain time or day, or to refer the matter to a committee. Only as a last resort should the Council use a motion to suspend the rules, in order to allow the motion to adjourn to interrupt deliberation on the matter.*

Motion 3. To Take a Brief Recess. This motion is made when a member wishes to take a short break during the meeting, but does not end the meeting.

Comment: *This motion allows the Council to pause briefly in its proceedings and should not be confused with the motion to adjourn to a time and place certain, which is a form of the motion to adjourn under these rules. Motion 3 is a “motion to take a brief recess” rather than a “motion to recess” or “motion to adjourn.” Since the number of Council members is small, and procedures are available to limit debate, debate is allowed on this motion. A motion to take a brief recess is in order at any time except when a motion to*

appeal a procedural ruling of the Chair or a motion to adjourn is pending.

Motion 4. Call to Follow the Agenda. This motion would require the agenda be taken in order, prohibiting the Chair from taking items out of order. The motion must be made at the first reasonable opportunity, or the right to make it is waived for the out-of-order item in question.

Comment: *This motion may be debated. Unless the motion is made when the item of business that deviates from the agenda is proposed, the right to insist on following the agenda is waived for that item.*

Motion 5. To Suspend the Rules. The Council may not suspend provisions of the rules that state requirements imposed by law on the Council. For adoption, the motion requires a vote equal to two-thirds of the actual membership of the Council, excluding vacant seats.

Comment: *This motion is in order when the Council wishes to do something that it may legally do but cannot accomplish without violating its own rules. The motion permits the Council to exercise greater flexibility and perhaps informality than adhering strictly to what the rules might allow. A motion to suspend the rules requires approval by two-thirds of the actual membership of the Council to pass. Note that the Chair and members who are absent from the meeting are counted for purposes of determining two-thirds of the Council, but vacant seats are excluded in making the two-thirds determination.*

Motion 6. To Go into Executive Session. The Council may go into Executive session only for one or more of the permissible purposes listed in A.R.S. §38-431.03. The motion to go into Executive Session must cite the purpose of the Executive Session and must be adopted at an open meeting.

Comment: *The requirements for this motion are found in A.R.S. §38-431.03(A), which permits Executive Session only for 7 topics. Those are:*

- 1. Discussion or consideration of employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining or resignation of a public officer, appointee or employee of any public body, except that, with the exception of salary discussions, an officer, appointee or employee may demand that the discussion or consideration occur at a public meeting. The public body shall provide the officer, appointee or employee with written notice of the executive session as is appropriate but not less than twenty-four hours for the officer, appointee or employee to determine whether the discussion or consideration should occur at a public meeting.*
- 2. Discussion or consideration of records exempt by law from public inspection, including the receipt and discussion of information or testimony that is specifically required to be maintained as confidential by state or federal law.*
- 3. Discussion or consultation for legal advice with the attorney or attorneys of the public body.*

4. Discussion or consultation with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation.

5. Discussions or consultations with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations with employee organizations regarding the salaries, salary schedules or compensation paid in the form of fringe benefits of employees of the public body.

6. Discussion, consultation or consideration for international and interstate negotiations or for negotiations by a city or town, or its designated representatives, with members of a tribal Council, or its designated representatives, of an Indian reservation located within or adjacent to the city or town.

7. Discussions or consultations with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property.

Motion 7. To Divide a Complex Motion and Consider It by Paragraph. The motion is in order whenever a member wishes to consider and vote on subparts of a complex motion separately.

Comment: *This motion is debatable.*

Motion 8. Motion for the Previous Question. The motion is not in order until every member has had an opportunity to speak once and there has been either at least 15 minutes of debate or debate has become repetitive.

Comment: *With small boards, a minimum period of debate on every proposal that comes before it strikes a superior balance between efficiency and effective representation by all Council members. Since every member will have an opportunity to speak, the debate may be ended by a majority vote. Fifteen minutes is merely a suggested minimum period of time. This rule avoids the practice followed by some boards of allowing any member to end debate by simply saying "call the question," without the Council actually taking a vote on that procedural issue. Such a practice is contrary to regular parliamentary procedures. In addition, such a practice allows individual members to impose their will unilaterally on the group, in defiance of the principle of majority rule on which these rules are based.*

Motion 9. To Postpone to a Certain Time or Day. If consideration of a motion has been postponed, a new motion with the same effect cannot be introduced while the postponed motion remains pending. A member who wishes to revisit the matter must either wait until the specified time, or move to suspend the rules.

Comment: *This motion allows the Council to postpone consideration to a specified time or day and is appropriate when more information is needed or the deliberations are likely to be lengthy. Note the restriction on making a new motion with the same effect while a postponed motion remains pending.*

Motion 10. To Refer a Matter to a Sub-Committee. The Council may vote to refer an item on the agenda to a sub-committee for study and recommendations. Sixty days or more after a substantive motion has been referred to a sub-committee, a member may compel consideration of the item by the entire Council, whether or not the committee has reported the matter to the Council by requesting the matter be placed back on the Council agenda.

Comment: *The right of the maker to compel consideration by the full Council after a specified period of time prevents using the motion as a mechanism to defeat a proposal by referring it to a subcommittee that is willing to “sit” on it.*

Motion 11. To Amend.

(a) An amendment to a motion must be pertinent to the subject matter of the motion. An amendment is improper if adoption of the motion with that amendment added would have the same effect as rejection of the original motion. A proposal to substitute completely different wording for a motion or an amendment will be treated as a motion to amend.

(b) A motion may be amended, and that amendment may be amended, but no further amendments may be made until the last-offered amendment is disposed of by a vote.

~~(c) Any amendment to a proposed legislative action (resolution/ordinance) must be reduced to writing before the vote on the amendment is taken.~~

Comment: *This motion is similar to a traditional motion to amend except for the additional requirement to write down amendments to legislation. The restriction on amendments stated in subpart (a), second sentence, of the provisions concerning this motion should be read narrowly; it is intended only to prevent an amendment that merely negates the provisions of the original motion. The intent of such an amendment can be achieved in a simpler and more straightforward manner by the defeat of the original proposal. Pertinent amendments that make major substantive changes in the original motion are quite proper.*

Some Councils allow a “substitute motion” when major changes in a motion are proposed. Such a motion is, in effect, a type of amendment. To avoid confusion, “substitute motions” are not allowed under these rules. All proposals for changes in a motion or in an amendment are treated as motions to amend, no matter how major their potential effect.

Subpart (b) of the rules governing this motion limits the number of proposed amendments that may be pending at one time to two, in order to reduce confusion. Amendments are voted on in reverse order; that is, the last-offered amendment, which would amend the first amendment, is voted on first. Once the last-offered of the two pending amendments is disposed of, an additional amendment may be offered.

Subpart (c) of the rules for this motion imposes an additional writing requirement for amendments to legislative actions. The rule assumes that amendments to proposed ordinances, like the ordinances themselves, should be in written form before they are voted on, both because of the importance of ordinances and to make it easier to maintain the required ordinance book and the minutes of the Council accurately. Similarly, amendments to orders, policies, and resolutions should be in written form before they are voted on, because of their significance and to make it easier to record them in the minutes.

Some Councils may have a practice of requiring the person making the original motion to approve of any proposed amendments to that motion. Such a practice is not recommended. Once a motion has been offered to the Council, it is up to the Council to decide whether or not it should be changed by amendment. If the person making the motion does not favor a proposed amendment, he or she is free to vote against it. And so long as the original motion has not been voted on and no amendment to it has passed, the original maker of the motion is free under these rules to withdraw it (see Rule 8). If a motion has been withdrawn, the Council members are generally free to make their own separate motions on the same subject.

Motion 12. To Reconsider. The Council may vote to reconsider its action on a matter. The motion to do so must be made by a member who voted with the prevailing side (the majority side except in the case of a tie; in that case the "nos" prevail) and at the meeting during which the original vote was taken, including any continuation of that meeting through adjournment to a time and place certain. The motion cannot interrupt deliberation on a pending matter, but is in order at any time before final adjournment of the meeting.

Comment: *To avoid placing a measure in limbo, these rules restrict the availability of the motion to the same meeting as the original vote, including any continuation of that meeting if it is recessed, or adjourned to a time and place certain.*

USE OF CITY RESOURCES

Discretionary Funds:

Each member will be allotted discretionary funds not to exceed \$2,500 each fiscal year, \$5,000 to the Mayor, that may be used to reimburse a not-for-profit organization for a specific or onetime purchase or for event costs when the event is held or conducted in whole or in part within the member's district, and when such expenditure is for a public purpose and the betterment of the community. Use of discretionary funds ~~may not be used when:~~ must be consistent with all applicable laws.

- ~~1) The recipient is a beneficiary of any other city program (Council Grants, Tourism Grants, etc);~~
- ~~2) The expenditure would create a requirement for on-going funding;~~
~~— The expenditure was rejected by the City Manager for inclusion in a departmental budget or capital improvement;~~
- ~~3) The expenditure replaces/supplants regular on-going maintenance and/or operations that are a part of a department's normal responsibility; or~~
- ~~3) The use conflicts with state law.~~

Use of discretionary funds requires the member wishing to utilize such funds to provide a Disbursement Request to the Finance Department. Funds will be released consistent with this policy.

Expenses, Reimbursements and Stipends

Council members are eligible to receive a City-issued cell phone or receive a monthly stipend for the business use of a personal cell phone.

Travel expenses, including mileage, reimbursements and stipends will be provided to members on the same basis as general City employees and will be approved and processed consistent with City policy.

Uses Barred

Consistent with State Law, no City resources, including communications media (computers, newsletters, etc.) may be used for advocacy or promotion of any issue subject to voter approval or candidate for elected office.

Council Offices

Council Offices are located in the northeast section of the 4th Floor of City Hall. The Office of the Mayor will be occupied by the one elected to that office, or appointed after a vacancy consistent with City Code. All other offices will be occupied on a first-come first-serve basis. Any member can request to move into any vacant office. If more than one member wishes to occupy a vacant office, selection of Council member offices will be based on seniority (that is the greatest number of uninterrupted days as a Surprise elected official), and then by lottery.

PREPARATION OF THE COUNCIL AGENDA

Supporting Information and Attachments

Each item on the Agenda should have supporting information and documentation for the item being considered. Necessary information includes the following, if applicable:

- Background Information: Relevant historical information, such as prior actions on the same or similar item, origin of the request, regional impact, or similar information.
- Financial Impact: actual and operational costs, revenue and other financial considerations, and whether such are one-time or ongoing.
- Budget Impact: Funding sources in the current budget (including e.g. contingency, unforeseen grants, etc.), and funding sources for future years, if applicable.
- Policy Compliant: Statement whether the action is consistent with City and Council Policy. If not, an explanation of why the item should deviate from policy. (Policy for this purpose includes normal City practice whether or not included in a written policy).
- FTE Impact: Necessary change in the number of FTE, whether the action would require a new FTE or the transfer of an FTE from another program.
- Objective Analysis: Analysis containing potential positive and negative impacts and impacts of if the item is not approved.
- Actual final documents (Resolution, Ordinance, Contracts, etc.)

Use of Consent Agenda

Consistent with the Council Rules of Conduct and Demeanor, and Parliamentary Rule #2, the Consent Agenda, unless otherwise required by law, should include all items previously discussed by Council for which no changes were requested by any member of Council; routine items (i.e. minor budget amendments, simple Intergovernmental Agreements, contract extensions, grant acceptances, and simple contract amendments); and items placed on the Consent Agenda at the Agenda Review.

Draft Agenda, Agenda Review

The Mayor (or designee) and the Vice Mayor (or designee), along with relevant staff selected by the City Manager, will review the Draft Agenda no fewer than 6 calendar days prior to the Council meeting. A Draft Agenda and the required "Supporting Information and Attachments" must be provided to the Mayor and Vice Mayor (or designees) no later than 24 hours prior to the Agenda Review meeting. Items may be removed that do not have sufficient information as identified in "Supporting Information and Attachments". Removed items will be placed on the agenda as soon as the "Supporting Information and Attachments" are available. The requirements of this section do not apply to emergency meetings or items placed on the agenda pursuant to Municipal Code Section 2-61(c)(1) (pertaining to items added 24 hours prior to the meeting) for which there is insufficient time to comply with this section.

SUBCOMMITTEES & WORKING GROUPS

Subcommittees and Working Groups formed in accordance with Surprise Municipal Code §2-40(i) will convene meetings at the direction of the subcommittee chair. Requests for meetings may be made to the subcommittee chair through the staff liaison.

An Agenda for each subcommittee meeting will be posted by the City Clerk no less than 24 hours prior to the meeting, in conformance with the Open Meeting Law, A.R.S. §38-431.01. Subcommittee meetings will convene in a meeting room at City Hall generally accessible to the public, except that executive sessions may be held in any location at City Hall.

IMPLEMENTATION AND ENFORCEMENT

As an expression of the standards of conduct for members expected by the City, this Policy & Procedure Manual is intended to be self-enforcing. Members themselves have the primary responsibility to assure that standards are understood and met, and that the public can continue to have full confidence in the integrity of government. It therefore becomes most effective when members are thoroughly familiar with it and embrace its provisions. For this reason, standards will be included in the regular orientations for candidates for City Council, and newly elected members. Members entering office must sign a statement affirming they have read and understood the provisions of this City Council Policy & Procedure Manual. In addition, this manual will be reviewed by the City Council to consider recommendations and update it as necessary in August of ~~evened~~-numbered years, or a soon thereafter as practical.

Notwithstanding the intended self-enforcing nature of these policies and procedures, the City Council, by a vote of a majority of its members, may impose sanctions on members whose conduct does not comply with the City's standards, such as reprimand, formal censure, removal from meeting (if the member's conduct is disruptive or impedes the orderly conduct of business at the meeting), or removal from any position or assignment to which the member has been appointed by the Mayor or City Council.

REPORTING VIOLATIONS

Members have a duty to create the image and reality of a responsive, accessible, and fair City government. Accordingly, members have a duty to report if another member has violated law or policy. Moreover, members must never attempt to use their authority or influence for the purpose of intimidating, threatening, coercing, commanding or influencing any person with the intent of interfering with that person's duty to disclose such improper activity. As a Corresponding duty, members shall refrain from making a false, misleading, or unsubstantiated report. If after review it is determined that a complaint is groundless and was made in bad faith or for the purpose of harassment, or intentionally false or otherwise malicious in nature, the complainant may be subject to sanctions under this Policy.

COMPLAINT

A Complaint by a member must be filed with the City Attorney on or before one-hundred eighty (180) days after the violation is alleged to have occurred or thirty (30) days after the alleged violation was discovered, whichever date is earlier. Upon receipt, the City Attorney will engage conflict counsel who will conduct an initial screening of the complaint and within fifteen (15) days recommend that the City Attorney handle the complaint as follows:

- (a) Dismiss it for being incomplete, untimely, or on its face lacking factual or legal merit;
- (b) Dismiss it if the complaint on its face fails to state allegations that, if true, would violate a mandatory requirement or prohibition as opposed to an aspirational or administrative provision of this Policy, City Code or any other laws;
- (c) Refer alleged violations of Arizona or federal laws to an appropriate agency if the complaint states on its face allegations that, if true, would constitute a violation of Arizona or federal law;
- (d) Or if the complaint states on its face allegations that, if true, would constitute a violation of a mandatory requirement or prohibition (as opposed to aspirational or administrative provisions) of the this Policy, the City Code or any other law, conflict counsel shall investigate the complaint and report to the City Council, the complainant, the member who is the subject of the complaint, and the City Attorney findings of fact and conclusions of law within sixty (60) days. The City Council shall consider the Conflict Counsel's report at a public meeting and either accept or reject the report as submitted and shall impose sanctions as it finds appropriate.

In all circumstances, the City Attorney shall follow conflict counsel's recommendation. The City Attorney's recommendation to refer a complaint for further investigation pursuant to subsection (c) and (d) above shall not raise the presumption that any of the complaint's allegations are true or that any member had violated this Policy or law. The timelines for handling complaints set forth

above set the outer limits. All parties involved are strongly encouraged to make their findings, recommendations, and decisions as expeditiously as possible for the sake of the public and the City officials against whom complaints have been filed.

The City Attorney will adopt written rules of procedure to govern the review process, including the right of a member against whom the complaint has been lodged to respond to the complaint, attend any hearing, and present witnesses and other evidence on her or his own behalf.

Any complaints relating to City elections must be filed with or referred to the City Clerk for review and disposition as provided by law.

APPENDIX

A. Statement of Commitment

B. Rules for the Public at Council Meetings

Statement of Commitment

As a member of the Surprise City Council I agree to uphold the principles, policies and procedures set forth in the Surprise City Council Policy & Procedure Manual and conduct myself by the following model of behavior. I will:

- Recognize the worth of individual members and appreciate their individual talents, perspectives and contributions;
- Help create an atmosphere of respect and civility where individual members, City staff and the public are free to express their ideas and work to their full potential;
- Conduct my personal and public affairs with honesty, integrity, fairness, and respect for others;
- Respect the dignity and privacy of individuals and organizations;
- Keep the common good as my highest purpose and focus on achieving constructive solutions for the public benefit;
- Avoid and discourage conduct that is divisive or harmful to the best interests of the City;
- Treat all people with whom I come in contact in the way I wish to be treated.

I affirm that I have read and that I understand the Surprise City Council Policy & Procedure Manual, dated this _____ day of _____, _____.

Mayor /Council Member for District _____

Rules for the Public at Council Meetings

- 1) Presence in the Council Dais Area. During a Council meeting, members of the public are permitted within the area in front of the Council dais only at the invitation or consent of the chair for purposes of making presentations and providing information to Council.
- 2) Addressing Council
 - a) Any member of the public desiring to address the Council may not proceed to the lectern until after being recognized by the Chair.
 - b) At the lectern, the member of the public should clearly state their name, and approximate cross streets for the record.
 - c) Statements will be limited to four (4) minutes per item to allow the meeting to proceed and end in a timely manner. The time limit may be extended at the option of the Chair.
 - d) If several speakers desire to speak regarding a single topic, the Chair can limit the number of speakers or limit the time given to each group; however, an equal amount of time will be given to each side of an issue.
 - e) Oral communications during the City Council meeting may not be used to lodge charges or complaints against any employee of the City or members of the body, regardless of whether such person is identified in the presentation by name or by any other reference that tends to identify him/her. Any such charges or complaints should be submitted during normal business hours to the City Manager for appropriate action.
- 3) No loud vocalization (shouting or calling out) will be permitted from the seating area of the Council Chamber.