

# *City of Seward, Alaska*

## *Rules of Council Procedure*



*Adopted March 14, 1994*

*As Amended through June 13, 2016*



## FOREWORD

Adopted on March 14, 1994 by the Seward City Council, the Rules of Council Procedure is a set of formal rules to guide the Council, Boards and Commissions and Administration in carrying out the public process. Below is a legislative history of the Rules of Council Procedure and its amendments:

<b><i>Date</i></b>	<b><i>Resolution No.</i></b>
March 14, 1994	1994-031 * <i>Established Rules of Procedure</i>
July 10, 1995	1995-078
March 18, 1996	1996-037
July 8, 1996	1996-088
August 26, 1996	1996-108
February 23, 1998	1998-013
August 25, 2003	2003-095
October 13, 2003	2003-101
November 24, 2003	2003-116 through 2003-127
January 12, 2004	2004-003
August 8, 2005	2005-071
September 12, 2005	2005-082
March 13, 2006	2006-021
December 11, 2006	2006-133
May 12, 2008	2008-040
August 24, 2009	2009-078 and 2009-079
January 11, 2010	2010-003
January 9, 2012	2012-002
February 10, 2014	2014-021
June 13, 2016	2016-038

This manual contains the full text of the Rules of Procedure, as amended; however, it no longer contains copies of the Council's adopted plans. If you need copies of the following or other plans, please contact the City Clerk's Office:

1. Lease Procedures
2. Parks & Recreation Master Plan
3. 2020 Comprehensive Plan
4. Small Boat Harbor Management Plan
5. Historic Preservation Plan
6. Municipal Land Management Plan

As these Rules of Procedure change, you will receive supplements to replace amended sections. The City Council and the City Clerk's Office hope that you will find this manual useful. If you have any suggestions for improvement, please call the Clerk's Office at 224-4045.

Mayor:	Jean Bardarson	City Clerk:	Johanna Kinney, CMC
Vice-Mayor:	Marianna Keil	Deputy City Clerk:	Brenda Ballou, CMC
Council Members:	Ristine Casagranda	City Manager:	Jim Hunt
	Dave Squires	Asst. City Manager:	Ron Long
	Dale Butts		
	Sue McClure		
	Deborah Altermatt		



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## INTRODUCTION

Welcome to the Seward City Council. This packet of information has been put together by the City Clerk's office to assist you as you carry out the duties of your office. Many of the provisions set forth in the following pages have been taken from the *Seward City Code*. These are generally followed by a citation in brackets indicating the particular section of the Code which is being quoted or paraphrased, i.e., (SCC § 2.10.055).<sup>a</sup> Other provisions were approved by resolution when the Council Rules of Procedure were adopted, or have been included as general information.

The City of Seward is a Home Rule city, founded in 1906 and incorporated in 1912. The Home Rule Charter was adopted in 1960. Alaska Statutes Title 29 governs the operations of Alaskan municipalities; however, as a home rule municipality, the City of Seward is not subject to all of the provisions of Title 29. (In contrast, general law municipalities are bound by all of the limitations set forth in AS 29.)

Regular city elections are conducted on the first Tuesday in October. The City Clerk coordinates the city election with the Kenai Peninsula Borough Clerk in order to lessen confusion for the voters and to save money for both the city and the borough. Generally, the Mayor and Council are elected to two-year terms, with the Mayor and three Council Members elected in odd years and three Council Members elected in even years. Occasionally, a vacancy occurs prior to the end of the Mayor or Council Member's term of office. In this case, the Council fills the vacancy until a successor is elected at the next regular election. If the vacancy occurs one year or more before the expiration of the term, the City Clerk advertises a one-year seat to be elected to fill the remainder of the term for that particular seat. In order to qualify for any elective office in Seward, a candidate must be registered to vote in city elections and must have lived in the City of Seward for at least one year prior to filing for office.

The City Council enacts the laws of the City of Seward, approves the annual budgets of the city, sets city policy and serves as an appeal board for actions taken by city boards and commissions and the city administration. In other words, your function is to serve as the **legislative** body of the city. The city's **administrative** functions are carried out by the City Manager. It is sometimes difficult to grasp the difference in these two areas of responsibility. For instance, you are setting policy when you adopt a budget for street plowing. However, it is up to the City Manager and their staff to determine who is going to do the plowing and which streets will be plowed first.

There are three city boards and commissions that are appointed by and report to the City Council, which include: Planning & Zoning Commission, Port & Commerce Advisory Board and Historic Preservation Commission. They are described on the following pages. The members of each are appointed to three-year terms. However, they serve at the pleasure of the Council and may be removed from a board or commission by the Council at any time before the expiration of their terms.

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<sup>a</sup> SCC = Seward City Code; §= Section



## PLANNING & ZONING COMMISSION

The Planning & Zoning Commission meets on the first Tuesday of each month. All commissioners must live within the City of Seward. If appointed at Council's organizational meeting in October, the council liaison to the commission attends the meetings and makes regular reports to Council regarding issues before the commission. If a council liaison is not appointed, the Commission will designate a member to give periodic reports to the Council at the regular scheduled meetings. Council also meets in an annual joint work session with the commission in March to address areas of mutual concern.

Membership on the Planning & Zoning Commission is open to citizens of the City of Seward.

### **The Planning & Zoning Commission performs the following duties:**

1. Interprets the provisions of the Zoning Code and makes compliance determinations when requested by the Community Planning Director;
2. Reviews and acts upon requests for variance permits, conditional use permits and other matters requiring consideration under the Seward Zoning Code;
3. Reviews the city comprehensive plan on an annual basis, conducts a minimum of one public hearing and forwards recommendations to Council for consideration;
4. Promotes public interest and understanding of comprehensive planning, platting, zoning, land management and other issues relating to community planning and development;
5. Acts in an advisory capacity to the City Council regarding the Zoning Code, the comprehensive plan, official zoning map, official land use plan map and other duties as requested by the City Council; and
6. Acts in an advisory capacity to the Borough Planning Commission regarding subdivision plat proposals; right-of-way and easement vacation petitions; Borough Comprehensive Plan and Coastal Zone Management Plan development, updates and amendments; and city comprehensive plan amendments not otherwise delegated to the City of Seward.



## HISTORIC PRESERVATION COMMISSION

The Historic Preservation Commission is required to meet at least twice each year. Currently, the Commission meets on the third Wednesday of each month.

Membership on the Historic Preservation Commission is open to citizens of the City of Seward *and* surrounding areas.

### **The Historic Preservation Commission has the following duties:**

1. Surveys and inventories community historic resources;
2. Reviews proposed nominations to the National Register of Historic Places;
3. Provides advice and information regarding the identification and protection of local historic and archaeological resources;
4. Supports the enforcement of state and local historic preservation laws;
5. Reviews and makes recommendations about local projects;
6. Develops a local historic plan; and
7. May give periodic reports to the City Council at Council's regular scheduled meetings.



## PORT AND COMMERCE ADVISORY BOARD

The Port and Commerce Advisory Board meets on the first and third Wednesday of each month.

If appointed at Council's organizational meeting in October, the council's representative to the Kenai Peninsula Economic Development District (KPEDD) is the liaison to this board, attends its meetings, and reports regularly to Council regarding its activities. If a liaison was not appointed, a member of this board will be appointed to give periodic reports to the city council.

The Port and Commerce Advisory Board will automatically dissolve if not continued by the affirmative vote of the Council at its first meeting of the fiscal year.

Membership on the Port and Commerce Advisory Board is open to citizens of the City of Seward *and* surrounding areas.

### **The Port and Commerce Advisory Board has the following duties:**

1. Reports annually to Council at the first Council meeting of the new fiscal year and at any other time as may be requested by Council;
2. Makes recommendations to Council concerning the design and coordination of projects to promote and develop transportation, trade, energy and commerce throughout Seward;
3. Provides input to Council on policy and procedural matters involving the establishment and continuance of commercial activity, improving the quality of life and protecting the public's best interest;
4. Advises Council on matters involving the establishment of support services towards the objectives outlined in SCC 2.30.325(2) and (3);
5. Performs other duties as requested by Council; and
6. Shall have no authority to expend or commit city funds without first obtaining approval by and any necessary appropriations from Council.



## **SECTION I - GENERAL PROVISIONS**

### **RULE 1. COUNCIL MEETINGS - LOCATION**

All regular meetings of the City Council are held in the Council Chambers in the Seward City Hall or at such other place as may be determined by the City Council upon consideration of the reasonable accommodation of the public as specified in *[SCC § 2.10.030 A. I.]*

### **RULE 2. COUNCIL MEETINGS - TIME**

The regular meetings of the City Council are held on the 2<sup>nd</sup> and 4<sup>th</sup> Mondays of each month at 7:00 p.m. As specified in SCC § 2.10.030 A.I. All regular and special meetings of the Council must adjourn no later than 10:30 p.m. The Council may not adjourn prior to 10:30 p.m. unless all presentations and comments by members of the general public have been heard. *[SCC § 2.10.031]*

### **RULE 3. COUNCIL MEETINGS - OPEN TO THE PUBLIC**

All meetings of the City Council and its boards and commissions are open to the public, except as provided for in SCC § 2.10.030 B (Executive Sessions.) The public must be given a reasonable opportunity to be heard at all regular and special meetings in accordance with SCC § 2.10.030 A.

### **RULE 4. ORGANIZATION OF COUNCIL**

The City Council must meet and organize not later than 30 days after each regular city election. At this organizational meeting, the Council elects one of its members to act as Vice-Mayor in the absence of the mayor. In addition, the Mayor may appoint the council liaison to the Planning Commission and the council representative to the Kenai Peninsula Borough Economic Development District. *[See Rule 29(c) and SCC § 2.10.020]*

### **RULE 5. PRESIDING OFFICER**

The Mayor presides at all meetings of the Council and is recognized as the head of the City for all ceremonial purposes. The Mayor has no regular administrative or executive duties. In case of the Mayor's absence or temporary disability, the Vice-Mayor acts as Mayor during the continuance of the absence. In case of the absence or temporary disability of the Mayor and the Vice-Mayor, an Acting Mayor selected by members of the Council acts as Mayor during the continuance of the absences or disabilities. The Mayor or Vice-Mayor is referred to as "Presiding Officer" from time to time in these Rules of Procedure. *[SCC §2.10.020 and § 2.10-025]*

### **RULE 6. QUORUM**

At all meetings of the Council, four Council Members who are present and eligible to vote constitute a quorum for the transaction of business. In the absence of a quorum, any number less than a quorum may



adjourn a meeting to a later date. (SCC § 2.10.040) A Council meeting adjourned under the previous provision is considered a regular meeting for all purposes.

#### **RULE 7. ATTENDANCE, EXCUSED ABSENCES**

In the event any member of the City Council departs from the city with the intent of remaining absent for more than 90 days, or fails to attend meetings of the Council for a period of 90 consecutive days, or attends less than 5 of the meetings of the Council during any continuous period of 5 months, the Council may declare the office of such member vacant. Members of the Council may be excused from attending a meeting of the Council by complying with this section. The member must contact the City Clerk prior to the meeting and state the reason for their inability to attend the meeting. The City Clerk will inform the Presiding Officer of the request for excused absence prior to the meeting, and the Presiding Officer will rule whether the absence is excused or unexcused. When calling the roll for the meeting, the Clerk will indicate whether a member's absence was ruled to be excused or unexcused, and the Clerk will make an appropriate notation in the minutes. If another Council Member questions the member's absence, the Presiding Officer will inquire if there is a motion to excuse the member. This motion is non-debatable. Upon passage of such motion by a majority of members present, the absent member will be considered excused and the Clerk will make an appropriate notation in the minutes. (SCC § 2.10.050)

#### **RULE 8. SPECIAL COUNCIL MEETINGS**

Procedures for setting a special meeting are as follows:

- (a) A special meeting may be called by the City Clerk on written request of the Mayor, City Manager or any 2 members of the City Council (SCC § 2.10.030 A.2.);
- (b) Notice of the special meeting will be prepared in writing by the Clerk. The notice must contain the following information about the meeting: time, place, and business to be transacted;
- (c) The notice will be delivered by mail or personally to the residence or principal place of business of each Council Member, the City Manager, and the business office of each local newspaper and radio and television station. The notice must be delivered at least 24 hours prior to the meeting (Charter 3.5 and SCC § 2.10.032);
- (d) The notices provided in this section may be dispensed with in emergency situations provided that a quorum is present and all absent members have waived, in writing, the notice requirements of SCC §2.10.032. Waivers may be signed either before or after the time of the meeting;
- (e) No business may be transacted at any special meeting of the Council except that stated in the notice of meeting (SCC § 2.10.030 A.2.)



## **RULE 9. COUNCIL MEETINGS - AGENDA**

- (a) All reports, ordinances, resolutions, contracts, documents or other matters to be submitted to the Council at the regular meeting must be submitted to the City Clerk not later than 5:00 p.m. on the Tuesday preceding the Monday meeting. The City Clerk prepares the agenda for all such matters according to the order of business, numbering each item consecutively. A copy of the agenda and supporting materials must be delivered to Council Members and the City Manager and made available to the press not later than 7:00 p.m. on the Saturday before the regular Council meeting. (SCC §2.10.055 D.) However, except in extraordinary situations, the City Clerk will provide full agenda packets to the Police Department on Thursday afternoon for delivery to the Council that evening. The agenda packet will be available for public inspection at 9:00 a.m. on the day of the meeting. In addition, the agenda will be published in the local newspaper on the Thursday prior to the meeting.
- (b) Council Members who wish to add items to the agenda must present the item in writing to the City Clerk no later than 5:00 p.m. On the Tuesday preceding the Monday meeting. The Clerk will prepare the written agenda statement if notified by the Council Member prior to 12:00 Noon on the preceding Monday.
- (c) The Council has the option of deleting any item from the agenda or deferring any item on the agenda to a subsequent Council meeting. Prior to voting on approval of the agenda, an agenda item may be deleted or deferred upon the request of a single Council Member if there is no objection from the remaining members. However, if any member objects, the member wishing to delete or defer an agenda item must so move. This motion requires a second and must receive four affirmative votes for approval. Agenda items may be moved from the consent agenda to the regular meeting agenda upon the request of any member of the Council.
- (d) No matters other than those on the agenda may be finally acted upon by the City Council provided that matters that seem to be emergencies or of an urgent need by the Mayor or any Council Member or the City Manager, with an explanation of the emergency or urgency stated in open Council meeting, may, with the consent of the Council majority present, be considered and acted upon by the Council. (SCC § 2.10.055 E.)

## **RULE 10. WORK SESSIONS**

Upon written request of the Mayor, City Manager or any two members of the City Council, the Council may hold work sessions for the purpose of planning, studying and discussing any question permitted by law. Work Sessions need have no formal agenda and may be conducted informally so long as such informality is not in conflict with these rules. No formal action may be taken by the Council on any matters discussed in the Work Session until the matter is placed on the Council agenda for a regular or special meeting. Work Sessions generally are held in the City Council Chambers; however, the Council may designate any other location for a particular work session provided that consideration is given to the reasonable accommodation of the public. (SCC § 2.10.030 A.4)



## **RULE 11. INTERFERENCE IN ADMINISTRATIVE SERVICE PROHIBITED**

No member of Council may direct, request or attempt to influence, either directly or indirectly, the appointment of any person to office or employment by the City Manager. No member of Council may interfere with the City Manager to prevent them from exercising their own judgment in the appointment of officers and employees in the administrative service. The Council and its members may deal with the administrative services solely through the City Manager and no member of the Council may give orders to any of the subordinates of the City Manager either publicly or privately. (*SCC § 2.10.090*)

## **RULE 12. COUNCIL MAIL**

The City Clerk is authorized to receive and open all mail addressed to the City Council. A copy of all correspondence needing action must be immediately forwarded to the City Manager for timely attention to the end that all administrative business referred to in such communications, and not necessarily requiring Council action, may be disposed of between Council meetings. All action taken pursuant to such communications shall be reported to the City Council thereafter. Any communication needing Council action shall be reported to the City Council at the next regular meeting together with the report and recommendations of the City Manager. (*SCC § 2.10.095*)



## SECTION II - APPOINTED OFFICIALS

The following three city officials are appointed by and report directly to the City Council: City Manager, City Clerk and City Attorney. They are employed under an employment agreement and are not subject to Title 3 of the Seward City Code.

### **RULE 13. CITY MANAGER**

The City Manager, as the chief executive officer and head of the executive branch of the City government, or their designee, must attend all meetings of the Council unless excused by the Presiding Officer or Council. The City Manager may take part in the Council's discussion on all matters on the agenda and otherwise concerning the welfare of the City. In the event that the City Manager is unable to attend a council meeting, they will appoint another qualified staff member to attend the meeting on behalf of the City Management. All employees of the City, with the exception of the Attorney and the Clerk and their respective staffs, are appointed by and are responsible to the City Manager.

### **RULE 14. CITY CLERK**

The City Clerk is the ex-officio Clerk of the Council and, in this role, keeps the official records of the Council meetings, acts as parliamentary advisor to the Council and performs such other duties in the meeting as may be required by the Mayor or the Council. In the absence of the City Clerk, the Clerk will appoint another qualified staff member to act as Clerk of the Council. The Clerk administers all city elections, provides for the codification of all city ordinances, is the custodian of all city records and the city seal, provides administrative support to the Mayor and Council, attests all deeds and other documents of the City, and takes all oaths and affirmations as necessary.

### **RULE 15. CITY ATTORNEY**

The City Attorney advises the City Council, the City Manager and the City Clerk on all matters of law. The attorney drafts and assists in drafting ordinances, resolutions, contracts and agreements to be made or entered into by the City, and approves the form of all such instruments. They prosecute violators of the City Code and represent the City in all actions of law. Any Council Member seeking advice from the attorney which will require the expenditure of city funds must first complete a Request for Legal Services Form which must be approved by the City Council and filed in the office of the City Clerk. *[See Appendix A-1]*

### **RULE 16. EVALUATION OF APPOINTED OFFICIALS**

The City Council shall evaluate the performance of the City Attorney, City Clerk and the City Manager separately and annually during the first council meeting in January, February and March of each year. These can be conducted in Executive Session. During the evaluation, the Council shall set goals, priorities and conduct salary negotiation for these appointed officials for the upcoming year.



The City Attorney, City Manager and City Clerk will complete a summary stating their accomplishments for the past review period and their goals for the upcoming review period. The City Clerk will provide the necessary blank evaluation forms, and the appointed official's completed goals and accomplishments summary to the Council no later than two weeks prior to the scheduled evaluation. The Mayor can appoint a member of the Council to receive the completed forms and tabulate the results prior to the formal evaluation sessions. At any time, the council may, by majority vote, make a motion to hold additional evaluations as they feel is necessary. *[See Appendices for City Manager, City Attorney and City Clerk evaluation forms.]*

#### **RULE 17. GIVING DIRECTION TO APPOINTED OFFICIALS**

The Manager, Clerk and Attorney work for the Council as a body and may not take direction from any individual member of the Council if doing so would conflict with the wishes of the majority. Generally, requests for research or drafting of ordinances, resolutions or other documents should be made at a meeting or work session to give dissenting members of the Council an opportunity to object to the request and to assure the appointed official that the direction given is supported by a majority of Council.



## SECTION III - DUTIES, PRIVILEGES AND BENEFITS OF MEMBERS

### RULE 18. FORMS OF ADDRESS

The Mayor shall be addressed as "Mayor (surname)", "Your Honor", "Mr./Madam Chairman" or "Mr./Madam Mayor". The Vice-Mayor, when acting for the Mayor, shall be addressed as "Vice-Mayor (surname)" or "Mr./Madam Chairman". Members of the Council shall be addressed as "Council Member (surname)".

### RULE 19. SEATING ARRANGEMENT

Council Members shall occupy their respective seats in the Council Chamber assigned to them by the Mayor. Such seats shall be assigned so that the Vice-Mayor sits on the left hand of the Mayor and other members are seated in order of seniority with those newest Council Members filling the outermost seats on the dais.

### RULE 20. CONFLICTS OF INTEREST

- (a) Conflict of Interest Defined. A conflict of interest exists whenever a Council Member has a direct or indirect substantial financial interest in the outcome of a vote or decision of the Council. No member of the Council may discuss or vote on any question in which the member has such a direct or indirect substantial financial interest. (*SCC § 2.10.035 C.*)
- (b) Obligations of Council Members Procedure:
  - (1) A Council Member should disclose any potential conflict of interest, no matter how remote, and ask the Presiding Officer to rule on whether a conflict does exist. This disclosure should be made prior to discussion or vote on the issue. The Presiding Officer will then rule whether a conflict of interest sufficient to disqualify the Council Member from participating in the matter then before Council does exist.
  - (2) Once the Presiding Officer rules on the question of conflict, any member of the Council disagreeing with the ruling so given may appeal the ruling of the Presiding Officer. The Council Member would say: "I appeal the ruling of the Chair." This motion requires a second and is debatable. The motion to be voted on would read: "Shall the decision of the Chair stand?" A majority of YES votes or a TIE vote would uphold the chair. Only a majority of NO votes could overturn the ruling of the Chair. The Council Member affected may not vote on such determination. (*Charter 3.5L*)
  - (3) Anyone seeking to disqualify a Council Member from participating in a decision on the basis of a perceived conflict of interest which has not been declared must raise the challenge as soon as the basis for disqualification reasonably should have been made known prior to the onset of debate and vote. The party seeking to disqualify the Council



Member shall state with specificity the basis for disqualification. The Presiding Officer would then rule on the potential conflict of interest as outlined in subsection (1) above. This ruling by the Presiding Officer may be challenged as outlined in subsection (2) above.

- (c) Public Disclosure File. The Clerk maintains a public disclosure file containing Council statements of intent to do business with the City. This file is available for inspection by the public.
- (d) Conflict of Interest, Generally. It should be remembered that the purpose of the conflict of interest law is to provide for the full public disclosure of any financial interest in a decision before the Council. Therefore, once the public disclosure is made and the Presiding Officer has ruled, and provided that this finding has not been overturned by the Council, any action taken by the Council in accordance with this ruling will probably be upheld by the Courts even if it is later proven that the ruling was in error.

## **RULE 21. MAYOR AND COUNCIL COMPENSATION**

- (a) Council Members are compensated for service on the City Council as follows:
  - (1) The Mayor is compensated at the rate of \$300 per month; and
  - (2) Each Council Member is compensated at the rate of \$200 per month.
- (b) Compensation is paid quarterly in January, April, July and October of each year and covers service for the three preceding months. Council compensation checks are issued with the first employee payroll of the month following the quarter for which compensation is due. [SCC §2.10.100]

## **RULE 22. RETIREMENT BENEFITS**

- (a) Public Employees Retirement System (PERS). Effective 2004, City Council Members are not eligible to participate in the Public Employees' Retirement System of Alaska (PERS).
- (b) Social Security and Medicare. The City opted out of the Social Security Program in 1981. In April 1986, changes in Social Security regulations required employees of the City to participate in the Social Security Medicare Tax at a rate of 1.45%. In April 1991, additional changes to Social Security regulations required employees not currently enrolled in an approved retirement system (such as PERS) to pay the full Social Security Tax rate of 7.65%.



## **RULE 23. RECOGNITION UPON RETIREMENT FROM COUNCIL**

Council Members who retire from service on the Council after one term or who are not re-elected following their first term of office will receive a plaque in recognition of their service to the City. Council Members who retire or fail to be re-elected after two or more terms on the City Council will receive an engraved gold pan in recognition of their service. A Mayor who retires or fails to be re-elected will receive a plaque bearing a gavel in recognition of their service to the City.



## SECTION IV - COUNCIL PROCEDURES

### **RULE 24. RULES OF ORDER**

Rules of Order not specified by statute, ordinance, or resolution shall be governed by Robert's Rules of Order Newly Revised. The City Clerk or designee shall serve as parliamentarian and shall advise the Presiding Officer as to correct rules of procedure or questions of specific rule application. (SCC §2.10.065 A.) [See Appendix A-14 and A-15]

### **RULE 25. MOTIONS**

All ordinances, resolutions, contracts and items of business that require Council approval shall be in the form of an affirmative motion. The affirmative vote of four members of the Council is required for the passage of any motion of Council unless otherwise noted in the City Code or in these Rules of Procedure. (SCC § 2.10.040 B.)

### **RULE 26. ORDER OF BUSINESS**

(a) The order of business for the regular meetings of the City Council is as follows: (*Resolution No. 96-037; Resolution No. 98-013; Resolution 2006-133, Resolution 2014-021*)

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL
4. CITIZEN COMMENTS ON ANY SUBJECT EXCEPT THOSE ITEMS SCHEDULED FOR PUBLIC HEARING
5. APPROVAL OF AGENDA AND CONSENT AGENDA
6. SPECIAL ORDERS, PRESENTATIONS AND REPORTS
  - A. Proclamations and Awards
  - B. Borough Assembly Report
  - C. City Manager's Report
  - D. City Attorney's Report
  - E. Other Reports, Announcements and Presentations
7. PUBLIC HEARINGS
  - A. Ordinances for Public Hearing and Enactment
  - B. Resolutions Requiring Public Hearing
  - C. Other Public Hearing Items
8. UNFINISHED BUSINESS
  - A. Items not Completed from Previous Agenda
  - B. Items Postponed from Previous Agenda
  - C. Items for Reconsideration
  - D. Other Unfinished Business Items
9. NEW BUSINESS
  - A. Ordinances for Introduction



- B. Resolutions
- C. Other New Business Items
- 10. INFORMATIONAL ITEMS AND REPORTS (No action required)
- 11. COUNCIL COMMENTS
- 12. CITIZEN COMMENTS
- 13. COUNCIL AND ADMINISTRATION RESPONSE TO CITIZEN COMMENTS
- 14. EXECUTIVE SESSION
- 15. ADJOURNMENT

(b) Consent Agenda. Those items on the council agenda which are considered routine by the City Manager and the City Clerk shall be indicated by an asterisk on the agenda. Unless the Mayor or a Council Member specifically requests that such an item on the consent agenda be considered under the regular meeting agenda, and thus removed from the consent agenda and considered separately on the regular agenda, these items so designated shall be approved, adopted, accepted, etc. by motion of the Council to approve the agenda and consent agenda. Those items so approved shall appear in the Council minutes as if acted upon individually. The Clerk shall read into the record the consent agenda, including the titles of any ordinances or resolutions contained therein. (SCC § 2.10.055 B.)

(c) Agenda items. The procedure for agenda items are as follows:

1. The Presiding Officer introduces the agenda item.
2. The Presiding Officer inquires if there is a motion by any Council member. If a motion is made, it shall be in the form of an affirmative motion.
3. Following the motion and its second, the Presiding Officer calls upon the City Manager to describe the matter under consideration.
4. If applicable, the Presiding Officer opens the public hearing and follows the public hearing procedure outlined in Rule 27.
5. The Presiding Officer asks if there is any discussion among Council members. The Presiding Officer may call on individual Council members in the discussion. The Presiding Officer inquires if there is any further discussion by the Council members.
6. The Presiding Officer inquires if there are any final comments or recommendations from administration.
7. The Presiding Officer inquires of the Council members as to whether they are ready for the question.
8. The Clerk shall conduct a roll call vote.



## **RULE 27. ADDRESSING THE COUNCIL BY THE PUBLIC**

(a) Generally. A person desiring to address the Council shall first secure the permission of the Presiding Officer to do so, shall approach the podium before the Council and give their name, state whether they are a resident of Seward in an audible tone of voice for the record, and, unless further time is granted by the Presiding Officer, shall limit their address to the time limits specified below. All remarks shall be addressed to the Council as a body and not to any member thereof. No person other than a Council Member and the person having the floor shall be permitted to enter into any discussion without permission from the Presiding Officer. Citizens giving testimony may not ask questions of a Council Member, the Mayor or the city staff. However, Council Members or the Mayor may ask questions of citizens giving testimony, and the time allotted to a citizen for public testimony shall be extended automatically to provide additional time which is reasonably sufficient to answer all questions posed. All items presented by a citizen during public testimony for consideration by the Council shall be retained by the City Clerk. Written testimony may be filed by submitting said statement to the City Clerk at or before the time scheduled for the public hearing or discussion of the item. No person or group shall disrupt a Council meeting. (*SCC § 2.10.070*)

(b) Public Hearings. The procedures for a public hearing are as follows [*Resolution 2014-021*]:

- (1) A sign-in sheet shall be provided for those wishing to address the Council under "Public Hearings". Prior to the start of the public hearing, the Presiding Officer will first recognize those whose names appear on the sign-in sheet. Any person who fails to sign in shall not be permitted to speak until all those who signed in have done so. At any public hearing all persons who have signed in and wish to be heard shall be heard. Those testifying under public hearings must limit their comments to 5 minutes. No person who has previously spoken during the public hearing on a particular item may speak again unless all other persons desiring to give testimony at the public hearing have spoken. A person speaking for a second time shall limit their testimony to not more than one minute.
- (2) The Presiding Officer introduces the agenda item.
- (3) The Presiding Officer inquires if there is a motion by any Council member. If a motion is made, it shall be in the form of an affirmative motion.
- (4) Following the motion and its second, the Presiding Officer calls upon the City Manager to describe the matter under consideration.
- (5) The Presiding Officer opens the public hearing, and announces the following Rules of Order:



- (a) All comments by proponents, opponents, or the public shall be made from the speaker's podium and any individual making comments shall first give their name, state whether they are a resident of Seward in an audible tone of voice for the record, and shall limit their remarks to 5 minutes. This is required because an official record of the public hearing is being made. No comments shall be made from any other location except the podium, and anyone making "out of order" comments may be subject to removal from the meeting.
  - (b) There will be no demonstrations during or at the conclusion of anyone's presentation.
  - (c) These rules are intended to promote an orderly system of holding a public hearing, to give every person an opportunity to be heard, and to ensure that no individual is embarrassed by exercising their right of free speech.
- (6) The Presiding Officer opens the floor to those on the sign-in sheet in the order which they appear on the sheet.
  - (7) The Presiding Officer calls for additional comments from the audience.
  - (8) The Presiding Officer closes the public hearing.
  - (9) Following the public hearing, discussion occurs among Council members. The Presiding Officer may call on individual Council members in the discussion. The Presiding Officer inquires if there is any further discussion by the Council Members.
  - (10) The Presiding Officer inquires if there are any final comments or recommendations from administration.
  - (11) The Presiding Officer inquires of the Council Members as to whether they are ready for the question.
  - (12) The Clerk shall conduct a roll call vote.
- (c) Citizen Comments and Discussion. Members of the public or their authorized representatives may address the Council by oral communications on any matter concerning the City's business or any matter over which the Council has control. There shall be two opportunities provided for such comments:
    - (1) Citizen comments on agenda items not scheduled for public hearing. The Clerk shall make available sign-in sheets on which persons desiring to speak during this time may indicate their desire to do so. All presentations under this agenda item shall be limited to three minutes per person and shall also be limited to a total time of not more than thirty six minutes.



(2) Citizen comments. This agenda item shall appear at the end of the agenda following all action items. Comments concerning any item over which the Council has control may be made. All presentations under this agenda item shall be entitled to five minutes per person unless otherwise stated by the Mayor or the Presiding Officer. Each person shall have only one opportunity to speak under this agenda item.

(d) Spokesperson for a Group of People. When any group of people wish to address the Council on the same subject matter, it shall be proper for the Presiding Officer to request that a spokesperson be chosen by the group to address the Council, and in that case, if additional members of the same group are to be presented at that time, to limit the number of people so addressing the Council so as to avoid repetition before the Council.

## **RULE 28. VOTING**

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

- (a) All votes shall be taken by roll call vote. The order of the roll call vote shall be altered for each vote. (*SCC § 2.10.035*)
- (b) No member of Council may be compelled to vote on a question. The vote of any member who is present at a meeting and who refuses or fails to cast a vote on a matter upon which he is qualified to vote shall be cast on the side receiving the greatest number of votes. In the event of a tie vote, a vote so cast shall be cast as a "no" vote. (*SCC § 2.10.035*)
- (c) In case of a tie in votes on any proposal, the proposal shall be considered lost. [Exception - Any vote on an appeal of the ruling of the chair is stated, "Shall the ruling of the Chair be sustained?" A tie vote, in this case, results in approval of the motion since it takes a majority of the body voting in opposition to overrule the Chair.]
- (d) Every member who is in the Council Chambers when the question is put to vote shall give their vote unless the Council Member is excused in accordance with Rule 20.
- (e) The passage of any ordinance, resolution or other action of the Council shall require the affirmative vote of at least four members of the Council.
- (f) The passage of a motion to reconsider shall require the affirmative vote of 2/3 of those members present.
- (g) The passage of any public emergency ordinance shall require the affirmative vote of all members present or the affirmative vote of three-fourths of the total membership of the Council, whichever is less. An emergency ordinance may not be used to levy taxes, to grant, renew or extend a franchise or to regulate a charge for a city service. Emergency ordinances are effective for sixty days.



## **RULE 29. COMMITTEES**

The Mayor may appoint standing committees of the Council as necessary or desirable and may appoint ad hoc committees to address specific topics. The Council may also meet in work sessions as a committee of the whole:

- (a) Committee of the Whole. The Council may meet as a Committee of the Whole composed of the entire council sitting as a legislative study committee. The Committee of the Whole shall not take any official action while in committee. The Mayor chairs the Committee of the Whole.
- (b) Special Ad Hoc Council Study Committees. Special Ad Hoc Council study committees may be created by the Council for a particular purpose, or when the issue is so complex and time consuming that it cannot be reasonably handled at a Council meeting. Council study committees shall consist of no less than 3 Council Members appointed by the Mayor. Special council committees shall sunset at the end of their mission, but no later than the end of each fiscal year unless specifically continued by the Council thereafter for a specified time period.
- (c) Council Liaisons. In order to build additional Council expertise in various areas of city operations, the Presiding Officer may appoint one Council Member to serve as a liaison to the Planning and Zoning Commission. These appointments shall be made at the Council's organizational meeting in October. If appointed, the council representative to the Kenai Peninsula Borough Economic Development District shall serve as liaison to the Port and Commerce Advisory Board. If council liaisons were not appointed, a member of each Board and Commission will arrange to give periodic reports to the City Council during Council's regular scheduled meetings.
- (d) Special Ad Hoc Citizen Advisory Committees. Special Ad Hoc Citizen Advisory Committees may be created by the Council for a particular purpose. Committee members shall be appointed by the Mayor, with the advice and consent of the Council. The Mayor shall appoint the chair of the committee. Citizen study committees shall sunset at the end of their mission, but no later than the end of each fiscal year unless specifically continued by the Council thereafter for a specified time period. One Council Member, and one alternate Council Member, may be appointed as a member and liaison of a citizen advisory committee.
- (e) Committees may make recommendations on proposed programs, services, ordinances, and resolutions within their area of responsibility before action is taken by the Council. The Committee Chair may present the recommendations of the committee during the discussion of the item of business.
- (f) Employees shall staff the various committees as directed by the City Manager, but no staff person shall serve as a voting member of a council or citizen study committee.
- (g) Minutes need not be taken of committee meetings.



## **RULE 30. ENACTED ORDINANCES, RESOLUTIONS AND MOTIONS**

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

## **RULE 31. RESOLUTIONS**

The procedure for resolutions is as follows:

A resolution may be voted on the same day it is introduced. Most resolutions take effect the day they are passed, except that those involving property transactions become effective 30 days after passage and those establishing rules and regulations affecting the public become effective not less than 10 days after passage. The title of each resolution shall in all cases be read prior to its passage. (NOTE: The titles of all resolutions passed on the consent agenda are read following passage.) Printed copies of resolutions shall be made available at the Council meeting for public inspection. Resolutions approving property transactions and resolutions adopting the city budgets require properly advertised public hearings prior to adoption. (*SCC Chapter 2.15*)



## **RULE 32. ORDINANCES**

The procedure for ordinances is as follows:

- (a) With the exception of emergency ordinances as provided below, no ordinance may be put to vote on the same day that it is introduced. An ordinance may be sponsored by the City Manager, City Clerk, City Attorney, one of the boards or commissions, the Mayor or any member of Council. However, no ordinance may be prepared by staff for presentation to the Council unless ordered by a majority vote of the Council or requested by the City Manager or prepared by the City Attorney or City Clerk on their own initiative. Ordinances are generally introduced on the consent agenda and are then carried forward to the next regular meeting for public hearing and a vote on enactment. The notice of the public hearing must be advertised in a newspaper of local circulation at least 5 days before the hearing. Prior to opening the hearing, the title of the ordinance must be read in full. Printed copies of the ordinance shall be made available at the Council meeting and in the office of the City Clerk prior to the meeting. Following public hearing, the Council may discuss and consider a vote on enactment of the ordinance. Ordinances take effect not less than 10 days following enactment unless they are exceptions stated in stated in SCC § 2.15.050. (*SCC § 2.15.015 and § 2.15.035 A*)
- (b) Emergency Ordinances. No ordinance shall be passed at the same meeting at which it is introduced unless an emergency is declared to exist by the Council. Any ordinance declared by the Council as being necessary as an emergency nature for preserving the public health, welfare and safety must contain a statement of the facts upon which the emergency finding is based. This exception shall not be employed for the sole reason that the rules for introduction, reading, etc. of legislation are waived to permit passage on the first reading due to the existence of an emergency. The ordinance may be enacted, amended and enacted, or rejected at the meeting at which it is introduced. The affirmative vote of all members present, or the affirmative vote of three-fourths of the total membership, whichever is less, is required for enactment. The City Clerk shall print and make available copies of enacted emergency ordinances and provide for posting and publication as set forth in SCC § 2.15.035 D. An emergency ordinance may not be used to levy taxes; to grant, renew or extend a franchise; or to regulate a charge for a city service. Emergency ordinances take effect immediately for a period of sixty days.
- (c) A Council Member may, in open session, request of the Presiding Officer that Council study the wisdom of enacting a particular ordinance. By affirmative motion, the Council may assign the proposed ordinance to a specific board or commission or the committee of the whole for study and consideration. The committee shall report its findings to the Council.
- (d) If a motion to pass an ordinance fails, the ordinance shall be considered lost.
- (e) Any ordinance amending or repealing any portion of the Seward City Code shall also amend or repeal the respective portions of any underlying ordinance(s).



### **RULE 33. PERMISSION REQUIRED TO ADDRESS THE COUNCIL**

Persons other than Council Members and management shall be permitted to address the Council only upon recognition and introduction by the Presiding Officer as specified in Rule 27.

### **RULE 34. RECONSIDERATION**

- (a) A motion to reconsider may be applied to any ordinance, resolution or action of the Council and has precedence over all motions except the motion to adjourn. A Council Member may make a motion to reconsider only if they voted on the prevailing side of the question to be reconsidered and if they make the motion to reconsider on the same day and at the same meeting at which the vote to be reconsidered was taken or if the Council Member files a written notice of intent to reconsider no later than 5:00 p.m. on the first business day following the day on which the vote was taken. The Council Member may file by telephone provided that the notice of intent to reconsider is signed before the motion is reconsidered. A motion for reconsideration requires a 2/3 vote to carry. If a motion to reconsider a particular ordinance, resolution or other action fails, a second motion to reconsider the same action shall not be in order. (*SCC § 2 .10.065 E.*)
- (b) The following motions may not be reconsidered:
- (1) A motion which can be renewed within a reasonable time;
  - (2) An affirmative vote whose provisions have been partly carried out;
  - (3) An affirmative vote in the nature of a contract when the party to the contract has been notified of the outcome;
  - (4) Any vote which has caused something to be done which it is impossible to undo;
  - (5) A vote on a motion to reconsider; or
  - (6) When practically the same result, can be obtained by some other parliamentary motion.

### **RULE 35. COUNCIL RELATIONS WITH BOARDS, COMMISSIONS AND ADVISORY COMMITTEES**

- (a) Generally. All statutory boards and commissions and Council-appointed citizen advisory bodies shall provide the Council with copies of any minutes taken of meetings. Full agenda packets for each of the Council's statutory boards and commissions shall be provided to the Council electronically. At the annual organizational meeting of the City Council in October, the Mayor shall appoint a Council liaison to the Planning and Zoning Commission and to any other board(s) as the Council may desire, or designate a member of the Board or Commission to give periodic reports to the city council.



Currently, there are three statutory boards appointed by the Council:

- (1) Planning and Zoning Commission
- (2) Port and Commerce Advisory Board
- (3) Historic Preservation Commission

(b) Appointment Procedures. See Rule 38.

(c) Reports to Council:

- (1) Planning and Zoning Commission. The Council liaison to the Planning Commission shall make regular reports to the Council regarding the activities of the Planning Commission. In addition, the Council shall meet in a joint work session with the Planning Commission in March of each year to discuss any areas of mutual interest.
- (2) Port and Commerce Advisory Board. The Port and Commerce Advisory Board makes quarterly reports to the Council and must, by Code, report annually at the first meeting of the fiscal year. Absent an affirmative vote of the Council at the first meeting of the fiscal year to continue the Board, the Board will dissolve within 30 days.

#### **RULE 36. COMPLAINTS AND SUGGESTIONS TO COUNCIL**

When citizen complaints or suggestions are brought before the City Council, other than for items already on an agenda, the Presiding Officer shall first determine whether the issue is legislative or administrative in nature and then:

- (a) If legislative, and if the Council finds such complaint suggests a change to an ordinance or resolution of the City or the enactment of a new ordinance or resolution, the Council may refer the matter to a board or commission, the Administration or the Council of the whole for study and recommendation.
- (b) If administrative and regarding administrative staff performance, administrative execution or interpretation of legislative or administrative policy within the authority of the City Manager, the Presiding Officer should then refer the complaint directly to the City Manager for review. The City Manager shall provide the Council with a copy of any written response to the complainant.

#### **RULE 37. FILLING COUNCIL VACANCIES**

If a vacancy occurs in the office of Council Member, the Council may elect some qualified person to fill such vacancy, the person elected shall hold office until a successor is elected at the next regular election and properly qualified. In order to fill the vacancy with the most qualified person available until an election is held, the Council will widely distribute and publish a notice of the vacancy, the procedure and any application form for applying. Each applicant will make a presentation to the Council regarding their qualifications to serve. The Council will then vote and sign ballots provided by the City Clerk. The



City Clerk will read each ballot aloud, will tabulate the votes and announce the results to the Council. The Council may then, by motion and voice vote, affirm the appointment of the candidate receiving the highest number of votes (*must have at least 4 per SCC 2.10.050*). For time frames during a recall of an elective officer, and when vacancies can be filled, see City Charter sections 2.12 and 2.13.

### **RULE 38. FILLING BOARD AND COMMISSION VACANCIES**

The City Clerk shall advertise vacancies on the Council's various boards and commissions no later than 30 days prior to the appointment date and shall forward a copy of this notice, along with the appropriate application form, to each board or commission member whose term is about to expire. The Clerk shall include a copy of each completed application and conflict of interest statement (if applicable) in the Council packet. Each applicant for a position on a Council appointed board or commission, shall make a brief presentation to the City Council regarding their qualifications and reasons for wishing to serve. The Clerk shall provide ballots containing the names of all applicants to the Council. Each Council Member shall vote a ballot, marking a number of names totaling the number of vacant seats to be appointed, and shall sign the ballot in the space provided and shall forward all ballots to the Clerk for counting and tabulation. The Clerk shall read the votes aloud and announce to the Council the number of votes cast for each applicant. The Council shall declare the vacancies filled by those applicants receiving the highest numbers of votes. In the event the number of applicants equals the number of vacant seats, the Council may move to appoint each of the applicants to a seat on the board or commission rather than proceeding with the ballot process.

### **RULE 39. COUNCIL TRAVEL**

The Council may appropriate funds for Council travel in the Mayor/Council department of the annual City budget. Any Council Member who desires to expend Council travel funds shall complete the regular City Travel Authorization Form available in the Clerk's Office [*Appendix A-2*]. Upon their return, the Council Member must file all receipts for travel with the City Clerk and must sign a completed Travel/Expense Report Form [*Appendix A-3*]. The receipts and reimbursement form will then be forwarded to the Finance Department for processing, and payment will be made to the requesting party. Prior notice of all elected and appointed official travel must be given to the City Council. A written or oral report must be given to the Council following any such City-funded travel. [*Resolution No. 96-088*]

### **RULE 40. LOBBYING**

When necessary to further the city's lobbying efforts in Juneau or elsewhere, the Mayor shall represent the Council unless, in the opinion of the Council, another member of the elected body or one of its appointed boards or commissions would better represent the position of the city with respects to a particular issue. In any case, anyone representing the city in its lobbying efforts shall present a full report of their trip to the Council at its next regular meeting. In addition, they shall comply with the provisions of Rule 39.



## **RULE 41. BUDGET PROCESS**

In September of each year, the Council shall meet in a work session with the City Administration to outline the budget policies and priorities for the upcoming fiscal year. In accordance with these policies and priorities, the City Manager shall develop and present to the Council a budget proposal for the next fiscal year at least 45 days prior to the next fiscal year. The Council shall schedule work sessions and public hearings as appropriate and shall make any adjustments it feels are warranted and shall adopt the budgets of the City at a regular meeting held not less than ten days prior to the end of the fiscal year (this is usually the first regular meeting in December). [*City Charter Chapter 6; SCC§ 5.05.15*]

## **RULE 42. BOARD OF ADJUSTMENT**

The City Council is designated to be the Board of Adjustment for the City and the Mayor is designated the Chairperson of the Board of Adjustments. An appeal hearing conducted by the Board of Adjustment is held on the basis of the record established before the commission or other body and the record on appeal. The Council may allow for oral presentations by the administration and the appellant; however, no new evidence may be received or considered by the Board of Adjustment hearing the appeal [*SCC § 2.10.080 and §15.10.415*].



## **SECTION V - SPECIAL CONSIDERATIONS FOR COUNCIL MEMBERS**

Elected officials, like employees, may be held liable for what they both say and do, either individually or collectively. There may be either case law or statutory responsibility for certain behaviors on the part of elected officials. The following is a description of the most common legal areas of concern.

### **CONFLICTS OF INTEREST**

There are a number of prohibitions commonly outlined in the statutes. Whether legally mandated or not, the following guidelines make sense, from a political, ethical and liability standpoint:

- (a) Elected officials should not fix their own wages or benefits during their immediate term of office;
- (b) Officials should not have a financial interest in, or vote on, a matter where the elected official's financial interest is especially affected;
- (c) An elected official should not have a personal financial interest in contractual matters over which they have any supervisory control; and
- (d) A public officer should not hire their spouse or child as an employee, unless said spouse or child is employed for unskilled day labor at wages not exceeding \$100 in any calendar month.

### **APPEARANCE OF FAIRNESS**

When governing bodies hold hearings that affect individual or property rights (quasi-judicial proceedings), they should be governed by the same strict fairness rules that apply to cases in court. The rule basically states that hearings must not only be fair, they must appear fair.

### **OPEN PUBLIC MEETINGS**

Public agency actions and deliberations should be conducted openly, and all persons must be allowed to attend unless "unruly", or otherwise excluded by law, such as executive sessions, labor negotiations, social gatherings (unless business is discussed), and certain quasi-judicial proceedings. A meeting is generally defined as any gathering of four or more governing body members (or a quorum, whichever is less) where city business is discussed.

Meeting places should not be designed to exclude members of the public, and the time and place of a special meeting must be designated.

Except in an emergency, users shall not use email, instant messaging, text messaging, or similar forms of electronic communications at any time during a meeting of the City Council. Users shall not use a city-issued mobile device in any way as to violate the Open Meetings Act requirements of the State of Alaska.



## **EXECUTIVE SESSIONS**

Are defined as that part of a public meeting from which the public may be excluded. Executive sessions should be part of a regular or special meeting, should state the purpose for the session with particularity, and are generally permissible to:

- (a) Discuss matters the immediate knowledge of which would clearly have an adverse effect upon the finances of the city;
- (b) Discuss subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion;
- (c) Discuss strategy for the negotiation of labor and other contracts;
- (d) Discuss matters pertaining to threatened or pending litigation;
- (e) Evaluate the performance of the City Attorney, the City Clerk or the City Manager;
- (f) Deliberate and prepare its findings of facts and conclusions of law pertaining to an appeal of an action of the Planning and Zoning Commission;
- (g) Discuss other matters which by law, municipal charter or ordinance are required to be confidential.

The public may be excluded from an executive session, but final action shall not be taken by the Council on any matter discussed in an executive session until the matter is placed on the agenda of a public meeting.

Violations of the Open Meetings Act may result in a number of losses to the city, including:

- (a) Ordinances, rules, resolutions, regulations, etc. Adopted in violation may be held invalid.
- (b) Any person may sue to recover the penalty or to stop or prevent violations.
- (c) A person prevailing against the city may be awarded all costs including reasonable attorneys' fees.

## **FREEDOM OF INFORMATION**

State and city law allow liberal access to public records. Public records include any communication, regardless of form, relating to the conduct of city business. All requests for public information are made through the office of the City Clerk.



## SECTION VI - CHECKLISTS FOR COUNCIL ACTION

There are a number of risk reduction checklists that Council Members should use when considering legislative actions. Legislators, administrators and legal counsel who draft ordinances and other proposed legislative actions should review the proposed ordinance, etc. against the appropriate checklists.

### **EQUAL PROTECTION CHECKLIST:**

1. Does the action treat different groups of people differently?
2. If so, by what standard will the classification be judged?
3. Is the classification justifiable under the appropriate standard?
4. Will an ordinance or policy which is neutral on its face have a discriminatory impact when applied?
5. Does the local government have a sufficient basis in fact in support of the action and/or classification?

### **SUBSTANTIVE DUE PROCESS CHECKLIST:**

1. Does the City have a legitimate goal in pursuing its proposed course of action?
2. What is the nature of the "right" being affected by the agency's decision?
3. Is it a right which is deemed to be fundamental? If so, does the agency have a compelling interest for taking the action?
4. If a fundamental right is involved, is there another less drastic way for the local government to achieve its goal which will create less interference with the constitutional right?
5. If it is an economic, social or business regulation, is there a rational relationship between the regulation and the governmental goal?
6. Does the regulation create a rebuttal presumption?

### **PROCEDURAL DUE PROCESS CHECKLIST:**

1. Will the proposed action or ordinance deprive a person of a "liberty" or "property" interest?
2. If so, has that person been afforded due process?



3. Has the person been given notice?
4. Has the person been given an opportunity to be heard?
5. Has the person been given a statement of reasons for the agency's decision?
6. Has the local government complied with applicable statutory, ordinance or contract provisions requiring due process?
7. Does an ordinance give sufficient notice to persons of its requirements?
8. Are the terms used in an ordinance defined?
9. Does the ordinance provide clear standards for the conduct of the officials who must enforce it?

#### **DUE PROCESS CHECKLIST - LICENSES AND PERMITS:**

1. Is there an ordinance dealing with the granting or revocation of the license or permit?
2. Is the ordinance clear and unambiguous?
3. Has the applicant for a license or permit been given reasonable information as to the items which they must submit to the agency prior to issuance?
4. Does the local government have the authority to legislate in the area for which the license or permit is to be granted?
5. Are the requirements for issuance of a license or permit reasonable and have they been consistently applied?
6. Do the items required prior to the issuance of a license or permit bear some reasonable relationship to the activity to be allowed?
7. Has the local government sought to limit the number of persons who can receive the license or permit?
8. If there is a limitation in the number of persons who may receive the license or permit, is there statutory authority for such a limitation?
9. Has an applicant for a license or permit been given an opportunity to have a hearing if the granting of a license or permit has been denied?
10. Has a hearing been held prior to the suspension or revocation of an existing license or permit?



11. If in an area with a limited number of licenses or permits, can the agency present a reason for the reduction, and has the identity of the business which will lose its license or permit been determined in a non-discriminatory manner?
12. Is the refusal to issue, or revocation of, the license or permit justified, or solely in response to public pressure?
13. Has the inspection or regulatory system of the agency been enforced in a non-discriminatory manner, or is the person being singled out for enforcement?
14. Do the fees charged for licenses and permits bear a reasonable relation to the cost of enforcement?

### **DUE PROCESS CHECKLIST - ZONING:**

1. Does the city have a zoning ordinance and amendments thereto which have been adopted in a procedurally correct manner?
2. Where the city seeks to enforce its zoning ordinance, are the pertinent provisions clear and unambiguous?
3. Is the agency interpreting and applying its zoning ordinance in a consistent manner?
4. Is the city considering amending its zoning ordinance in a way which would only be applicable to a single piece of property where other properties within the community have the same characteristics?
5. Has the agency complied with any "Open Meetings Act" and other applicable requirements?
6. Where the rezone request originates with other than the property owner, was specific written notice given to the property owner of the hearings and tendency of the proposed zoning change?
7. Has the local government taken and retained thorough minutes of meetings of the Planning Commission, Board of Architectural Review, Board of Adjustment, Appeals Board, and governing body, etc.?
8. Have all proper public hearings, with properly published notice, been held prior to adoption?
9. Has the city denied a zoning change solely in order to lessen competition for existing business?
10. Has the city permitted objectors to the proposed zoning to present their evidence, including the presentation of the witnesses and the cross-examination of the witnesses of the applicant?



11. Has the city denied a request for a zoning change based merely upon the objection of neighboring property owners with no other justifiable findings of fact?
12. If covenants, conditions, renderings, etc. Are included as part of an approval, have those covenants, etc. Been specifically incorporated in the ordinance, resolution or motion?

**"TAKING" (INVERSE CONDEMNATION) CHECKLIST:**

1. Is the regulation of property being done in order to advance a legitimate public interest?
2. Will a particular regulation deprive a property owner of every economically viable use of their property?
3. Has the property owner taken actions such as expenditure of funds in reliance upon a municipal action, such as granting of a building or utility permit?
4. Does the City action constitute a physical intrusion on the property?
5. Have the officials compiled a sufficient record setting forth the reasons for the action?
6. Is there a less intrusive way of achieving the same goal?

**GENERAL ORDINANCE ADOPTION CHECKLIST:**

1. Have all the statutory or local procedural requirements been followed?
2. Is the ordinance a subject upon which the City has Federal or State constitutional or statutory authority to act?
3. As drafted, does the ordinance treat all similarly situated persons in the same way?
4. Are the terms of the ordinance clear enough so that people do not have to guess at its meaning?
5. Does the ordinance clearly state what a person must do in order to comply with it?
6. Does the ordinance define special or broad terms which it uses?
7. Does the ordinance set sufficient standards for the officials who must enforce it, or does it give the enforcing agent too much discretion in making a decision whether or not to do something?
8. Does the ordinance require that notice of hearing be given to a person whose rights are affected by it?



9. Does the ordinance require the official who is making a decision under it to give notice of that decision and the reasons for it within a reasonable time?
10. Can the local government achieve its goal by using a less restrictive or intrusive means?
11. Do the ordinance provisions constitute a "prior restraint" on a person's First Amendment rights?
12. Has the agency created an adequate record or compiled sufficient evidence in order to support its findings and conclusions for enacting the ordinance?
13. Is the ordinance too broad?
14. Does the ordinance so heavily burden a person's use of their property that it might be considered a taking?
15. If an ordinance is changing an existing local regulation, does it give persons a reasonable amount of time to comply with the changes?
16. Have the Attorney and Risk Manager been consulted before taking action which might result in claims against the agency or litigation?
17. Have similar ordinances been upheld elsewhere?
18. If an ordinance is challenged, would you consider suspending it pending a judicial determination?



*City of Seward, Alaska*  
COUNCIL REQUEST FOR LEGAL SERVICES\*

COUNCIL MEMBER: \_\_\_\_\_

DATE OF REQUEST: \_\_\_\_\_ DATE RESPONSE REQUIRED: \_\_\_\_\_

SUBJECT MATTER

DATE RECEIVED BY CLERK: \_\_\_\_\_ CLERK'S INITIALS: \_\_\_\_\_

FAXED TO ATTORNEY BY: \_\_\_\_\_ DATE: \_\_\_\_\_

ATTORNEY RESPONSE

ESTIMATE OF FULL RESEARCH/RESPONSE TIME AND EXPENSE (if nec.)

ATTORNEY: \_\_\_\_\_ DATE: \_\_\_\_\_

*\*Submittal of this legal information request is predicated on the understanding between the City of Seward and Birch Horton Bittner and Cherot that no charges for responding to this inquiry will be payable by the city unless the estimate portion is completed and formal authorization to incur legal research expenses is provided by the City Clerk.*



## City of Seward TRAVEL AUTHORIZATION

( All information must be completed and the authorization approved prior to travel. )

NAME		POSITION		DATE	
DEPARTMENT		DIVISION / SECTION		PHONE NUMBER	
PURPOSE OF TRIP					
ITINERARY ( Itinerary must be completed to confirm Per Diem for Meals )					
Time Departing Seward	Time Arriving at Destination	Time Departing Destination	Time Arriving at Seward		
List which meals on which days Per Diem is being requested for.					
OTHER INFORMATION ( Place of Lodging, etc )					
DEPARTURE DATE			RETURN DATE		
ORIGIN	DESTINATION		CONTACT TELEPHONE NUMBER		
MODE OF TRAVEL					
<input type="checkbox"/> AIR	<input type="checkbox"/> PRIVATE VEHICLE	<input type="checkbox"/> CAR RENTAL	<input type="checkbox"/> OTHER: (Specify)		
ESTIMATED EXPENSES			CHARGE TO CODE		
TRANSPORTATION	\$	Fund	Dept	GL	Amount
LODGING	\$				\$
MEALS	\$				\$
REGISTRATION FEES	\$				\$
CAR RENTAL	\$	Will any portion be reimbursed by another Agency? <input type="checkbox"/> YES <input type="checkbox"/> NO			
OTHER	\$				
TOTAL IS		By Who:			
ADVANCE REQUIRED \$		How much?			
Submit Check Request with Copy of Travel Authorization for Advance					
COMPLETE TRAVEL AND OTHER EXPENSE VOUCHERS, WITH EACH SUPPORTING DOCUMENTS AND SUBMIT TO FINANCE WITHIN 10 DAYS OF YOUR RETURN TO SEWARD, OR ALL MONIES ADVANCED TO YOU WILL BE DEDUCTED FROM YOUR NEXT PAYROLL CHECK. AN EXPENSE REPORT IS DUE EVEN WITH NO EXPENSES					

EMPLOYEE'S SIGNATURE \_\_\_\_\_

DEPARTMENT HEAD \_\_\_\_\_

CITY MANAGER

(Required on all out-of-state travel & when expenses are over \$1,000.00)





## CITY MANAGER EVALUATION

**City Manager:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**A. Communicates Clearly And Effectively With The City Council:** *(Circle One)*

1	2	3	4	5
Unsatisfactory	Needs Improvement	Adequate	Good	Excellent

Comments and/or suggestions for improvement:

**B. Accomplishes Council Policies And Priorities:** *(Circle One)*

1	2	3	4	5
Unsatisfactory	Needs Improvement	Adequate	Good	Excellent

Comments and/or suggestions for improvement:

**C. Provides Superior Integrity, Honesty, And Leadership:** *(Circle One)*

1	2	3	4	5
Unsatisfactory	Needs Improvement	Adequate	Good	Excellent

Comments and/or suggestions for improvement:

**D. Accomplishes Daily Missions And Tasks In All Departments:** *(Circle One)*

1	2	3	4	5
Unsatisfactory	Needs Improvement	Adequate	Good	Excellent

Comments and/or suggestions for improvement:

**E. Secures Funding And Support For Future Projects And Long Term Objectives:** *(Circle One)*

1	2	3	4	5
Unsatisfactory	Needs Improvement	Adequate	Good	Excellent

Comments and/or suggestions for improvement:



**F. Manages And Maintains Effective Internal Controls, Budgets, And Resources:** *(Circle One)*

1                      2                      3                      4                      5  
Unsatisfactory      Needs Improvement      Adequate              Good                      Excellent

Comments and/or suggestions for improvement:

**G. Plans And Prepares For Future Requirements And Emergencies:** *(Circle One)*

1                      2                      3                      4                      5  
Unsatisfactory      Needs Improvement      Adequate              Good                      Excellent

Comments and/or suggestions for improvement:

**H. Is Responsive To The Public:** *(Circle One)*

1                      2                      3                      4                      5  
Unsatisfactory      Needs Improvement      Adequate              Good                      Excellent

Comments and/or suggestions for improvement:

**I. Strengths And/Or Weaknesses:** *(Circle One)*

1                      2                      3                      4                      5  
Unsatisfactory      Needs Improvement      Adequate              Good                      Excellent

Comments and/or suggestions for improvement:

*(Continue on back of form, if necessary)*

Council Member's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Council Member's Printed Name: \_\_\_\_\_



# CITY CLERK EVALUATION

City Clerk: \_\_\_\_\_

Date: \_\_\_\_\_

### SCORING CRITERIA

- 1 **Unacceptable:** Has not performed well at all in this category. *(Must provide example(s)).*
- 2 **Below Average:** Needs improvement in this category. *(Must provide example(s)).*
- 3 **Average:** Has performed satisfactorily in this category.
- 4 **Above Average:** Has performed better than average in this category.
- 5 **Excellent:** Has had superior performance in this category.

**A. Has Good Attendance At Meetings And Work Sessions:** *(Circle One)*

- |              |               |         |               |           |
|--------------|---------------|---------|---------------|-----------|
| 1            | 2             | 3       | 4             | 5         |
| Unacceptable | Below Average | Average | Above Average | Excellent |

Comments and/or suggestions for improvement:

**B. Is Efficient In The Preparation Of Agendas For Meetings And Work Sessions:** *(Circle One)*

- |              |               |         |               |           |
|--------------|---------------|---------|---------------|-----------|
| 1            | 2             | 3       | 4             | 5         |
| Unacceptable | Below Average | Average | Above Average | Excellent |

Comments and/or suggestions for improvement:

**C. Is Responsive To Concerns And Answers Questions Promptly:** *(Circle One)*

- |              |               |         |               |           |
|--------------|---------------|---------|---------------|-----------|
| 1            | 2             | 3       | 4             | 5         |
| Unacceptable | Below Average | Average | Above Average | Excellent |

Comments and/or suggestions for improvement:

**D. Conducts Parliamentarian Skills When Asked:** *(Circle One)*

- |              |               |         |               |           |
|--------------|---------------|---------|---------------|-----------|
| 1            | 2             | 3       | 4             | 5         |
| Unacceptable | Below Average | Average | Above Average | Excellent |

Comments and/or suggestions for improvement:



**E. Able To Anticipate Problems And Is Effective In Preventive Actions:** *(Circle One)*

1	2	3	4	5
Unacceptable	Below Average	Average	Above Average	Excellent

Comments and/or suggestions for improvement:

**F. Coordinates And Administers City Elections, Absentee Voting, Worker Training, And Canvass Boards Efficiently:** *(Circle One)*

1	2	3	4	5
Unacceptable	Below Average	Average	Above Average	Excellent

Comments and/or suggestions for improvement:

**G. Keeps The Public And City Council Informed Of Related Matters:** *(Circle One)*

1	2	3	4	5
Unacceptable	Below Average	Average	Above Average	Excellent

Comments and/or suggestions for improvement:

**H. Deals Tactfully, Courteously, And Efficiently With The Public:** *(Circle One)*

1	2	3	4	5
Unacceptable	Below Average	Average	Above Average	Excellent

Comments and/or suggestions for improvement:

**I. Engages In Activities To Promote Own Professional Growth And Development:** *(Circle One)*

1	2	3	4	5
Unacceptable	Below Average	Average	Above Average	Excellent

Comments and/or suggestions for improvement:



**J. Judgments, Actions And Decisions Are Sound:** *(Circle One)*

1                      2                      3                      4                      5  
Unacceptable      Below Average      Average              Above Average      Excellent

Comments and/or suggestions for improvement:

**K. What Degree Of Confidence Do You Have In The City Clerk From All Aspects Of Their Performance And Relationship To You As A City Council Member?** *(Circle One)*

1                      2                      3                      4                      5  
Unacceptable      Below Average      Average              Above Average      Excellent

Comments and/or suggestions for improvement:

**L. Overall Rating Of The City Clerk Department As A Whole:** *(Circle One)*

1                      2                      3                      4                      5  
Unacceptable      Below Average      Average              Above Average      Excellent

Comments and/or suggestions for improvement:

**City Clerk Strengths Or Weaknesses:**

**Comments:**

Council Member's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Council Member's Printed Name: \_\_\_\_\_

Revised: 01/01/2010



# CITY ATTORNEY EVALUATION

City Attorney: \_\_\_\_\_

Firm: \_\_\_\_\_ Date: \_\_\_\_\_

### SCORING CRITERIA

- DK Don't Know:** Have not made any personal observations in this category. *(Not included in tally.)*
- 1 Unacceptable:** Has not performed well at all in this category. *(Must provide example(s)).*
- 2 Below Average:** Needs improvement in this category. *(Must provide example(s)).*
- 3 Average:** Has performed satisfactorily in this category.
- 4 Above Average:** Has performed better than average in this category.
- 5 Excellent:** Has had superior performance in this category.

**A. Firm Works Well As Part Of The Executive Team: (Circle One)**

DK	1	2	3	4	5
Don't Know	Unacceptable	Below Average	Average	Above Average	Excellent

Comments and/or suggestions for improvement:

**B. Tempers And Balances Legal Approaches And Restrictions With Reality And Service Needs: (Circle One)**

DK	1	2	3	4	5
Don't Know	Unacceptable	Below Average	Average	Above Average	Excellent

Comments and/or suggestions for improvement:

**C. Provides Solutions And Alternatives To Legal Problems And Issues: (Circle One)**

DK	1	2	3	4	5
Don't Know	Unacceptable	Below Average	Average	Above Average	Excellent

Comments and/or suggestions for improvement:

**D. Responsive To Direct Requests From Council: (Circle One)**

DK	1	2	3	4	5
Don't Know	Unacceptable	Below Average	Average	Above Average	Excellent

Comments and/or suggestions for improvement:



**E. Provides Answers To Questions In A Timely Fashion And In An Understandable Manner: (Circle One)**

DK                      1                      2                      3                      4                      5  
Don't Know      Unacceptable      Below Average      Average      Above Average      Excellent

Comments and/or suggestions for improvement:

**F. Keeps Abreast Of Changes Occurring In The Various Facets Of Municipal Law: (Circle One)**

DK                      1                      2                      3                      4                      5  
Don't Know      Unacceptable      Below Average      Average      Above Average      Excellent

Comments and/or suggestions for improvement:

**G. Keeps The City Advised Of Developments In Municipal Law And Actions In Other Communities And Jurisdictions That May Have An Impact On The City's Activities: (Circle One)**

DK                      1                      2                      3                      4                      5  
Don't Know      Unacceptable      Below Average      Average      Above Average      Excellent

Comments and/or suggestions for improvement:

**H. Maintains A Good System Of Reporting The Activities Of The Legal Department, Consistent With Maintaining The Attorney-Client Privilege: (Circle One)**

DK                      1                      2                      3                      4                      5  
Don't Know      Unacceptable      Below Average      Average      Above Average      Excellent

Comments and/or suggestions for improvement:

**I. Attends Meetings As Required: (Circle One)**

DK                      1                      2                      3                      4                      5  
Don't Know      Unacceptable      Below Average      Average      Above Average      Excellent

Comments and/or suggestions for improvement:



**J. Is Well Prepared And Knowledgeable About Council Agenda Items For Which Attorney Review Was Requested: (Circle One)**

DK	1	2	3	4	5
Don't Know	Unacceptable	Below Average	Average	Above Average	Excellent

Comments and/or suggestions for improvement:

**K. Is Adept At Cost Control: (Circle One)**

DK	1	2	3	4	5
Don't Know	Unacceptable	Below Average	Average	Above Average	Excellent

Comments and/or suggestions for improvement:

**L. Anticipates Legal Questions: (Circle One)**

DK	1	2	3	4	5
Don't Know	Unacceptable	Below Average	Average	Above Average	Excellent

Comments and/or suggestions for improvement:

**M. Council Is Confident With Attorney's Advice: (Circle One)**

DK	1	2	3	4	5
Don't Know	Unacceptable	Below Average	Average	Above Average	Excellent

Comments and/or suggestions for improvement:

**N. Is Effective In Advising Whether Or Not Litigation Is Excessive, Unnecessary, or Successful: (Circle One)**

DK	1	2	3	4	5
Don't Know	Unacceptable	Below Average	Average	Above Average	Excellent

Comments and/or suggestions for improvement:



**O. Written Communication Skills:** *(Circle One)*

DK	1	2	3	4	5
Don't Know	Unacceptable	Below Average	Average	Above Average	Excellent

Comments and/or suggestions for improvement:

**P. Public Speaking Skills:** *(Circle One)*

DK	1	2	3	4	5
Don't Know	Unacceptable	Below Average	Average	Above Average	Excellent

Comments and/or suggestions for improvement:

**Q. Effectively Responds To Concerns Expressed By Council In The Most Recent Evaluation:** *(Circle One)*

DK	1	2	3	4	5
Don't Know	Unacceptable	Below Average	Average	Above Average	Excellent

Comments and/or suggestions for improvement:

**R. City Attorney Carries out The Overall Wishes Of The Council:** *(Circle One)*

DK	1	2	3	4	5
Don't Know	Unacceptable	Below Average	Average	Above Average	Excellent

Comments and/or suggestions for improvement:

**Specific Examples Of Strengths And Weaknesses:**



**Comments:**

Council Member's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Council Member's Printed Name: \_\_\_\_\_

Revised: 01/01/2010



4/17

### Chart of Precedence of Motions

	May Interrupt a Speaker	Requires a Second	Debatable	Vote Required	Amendable
<b>Privileged Motion</b>					
1. To fix time at which to adjourn	No	Yes	No	Majority	Yes
2. To adjourn (unqualified)	No	Yes	No	Majority	No
3. To take a recess	No	Yes	No	Majority	Yes
4. To rise to a question of privilege	Yes	No	No	Chair Rules	No
5. To call for the orders of the day	Yes	No	No	Demand	No
<b>Subsidiary Motions</b>					
6. To lay on the table	No	Yes	No	Majority	No
7. To call for the previous question	No	Yes	No	2/3	No
8. To limit, or extend limits, of debate	No	Yes	No	2/3	Yes
9. To postpone definitely	No	Yes	Yes	Majority	Yes
10. To refer to a committee	No	Yes	Yes	Majority	Yes
11. To amend	No	Yes	Yes	Majority	Yes
12. To postpone indefinitely (kills main motion)	No	Yes	Yes	Majority	Yes
<b>Main Motion</b>					
13. General main motions	No	Yes	Yes	Majority	Yes
<b>Bring Back Motions</b>					
14. To take from the table	No	Yes	No	Majority	No
15. To reconsider	No	Yes	Yes	Majority	No
16. To reconsider and enter on the minutes	No	Yes	No*	None until called for	No
17. To rescind	No	Yes	Yes	2/3	No
18. To rally	No	Yes	Yes	Majority	No
					Yes

\*When called for ...



Action for Special Purposes		
Kind of Motion	Object	Effect
To call for a division	(a) Determine the accuracy of a vote (b) Secure expression of individual member's vote	Secures an accurate check on vote
To make a request growing out of pending business	To secure information or ask to be excused from a duty	Provides information
To fix the time at which to adjourn	To have legal continuation of the meeting	Sets definite continuation time
To take a recess	To secure an intermission	Delays action
To raise a question of privilege	To correct undesirable conditions	Corrects undesirable condition
To call for the order of the day	To secure adherence to the order of business	Same as object
<b>Bring Back Motions</b>		
To take from the table	Continue the consideration of the question	Continues consideration of question
To reconsider. (Only a member of the prevailing side may make this motion.)	To reconsider the question	Secures further consideration and another vote on the question
To reconsider and have entered on the minutes. (Only a member of the prevailing side may make this motion.)	To reconsider the question at the next meeting. Requires a majority vote to pass the motion.	Secures further consideration and another vote on the question
To rescind, if still repairable	To repeal action previously taken. Requires a two-thirds majority without notice and a simple majority with notice.	Same as object

Action for Special Purposes		
Kind of Motion	Object	Effect
To lay on the table	Clear the floor for more urgent business	Delays action
To call for the previous question	Secure immediate vote on pending question	Ends debate
To limit or extend time for debate	Provides more or less time for discussion	Shortens or lengthens discussion period
To postpone definitely (to a certain time)	Often gives more time for informal discussion and for securing followers	Delays action
To commit or refer	To enable more careful consideration to be given	Delays action
To amend	To improve the motion	Changes the original motion
To postpone indefinitely	To prevent a vote on the question	Suppresses the question
To raise a point of order	To call attention to violations of rules	Keeps group functioning according to parliamentary procedures
To appeal from the decision of the chair	To determine the attitude of the group on the ruling made by the chair	Secures ruling of the group rather than by the chair
To suspend the rules	To permit action not possible under the rules	Secures action that would otherwise be prevented by the rules
To object to the consideration of a question	Prevent wasting time on unimportant business	Suppresses the motion
To divide the question	Secure more careful consideration of parts	Secures action by parts
To nominate	Suggest names for office	Pieces before the group names for consideration



## City of Seward City Council Mobile Device Acceptable Use Policy

1. **Purpose.** The City of Seward recognizes the benefits of utilizing digital communication and information, and supports the utilization of the mobile devices by the City Council. Users of City-issued mobile devices acknowledge, understand, and agree to abide by the terms of this policy.
2. **Receipt of mobile device.** The City Clerk's Office will issue mobile devices that include appropriate applications for uses relating to City business. The mobile devices will serve as the sole source of meeting packets, and paper packets will not be provided except in the event that technical problems require the use of paper packets. A City-issued mobile device is defined to include the device itself, and any other accessories provided by the City such as power cords, stylus tools, keyboard cases, etc.
3. **Care of mobile device.** Users are responsible for the general care of the mobile device that they have been issued by the City. Mobile devices must remain free of any writing, drawing, stickers, or labels that are not the property of the City. Only a clean, soft cloth should be used to clean the screen. Users may consult with the IT Department or City Clerk with any questions or concerns related to appropriate care of the mobile device.
4. **Software on mobile device.** The software and applications installed by the City must remain on the mobile device in usable condition and be readily accessible at all times. From time to time, the City may add or upgrade software applications such that users may be required to check in their mobile devices with the IT Department or the City Clerk for periodic updates and syncing. In the event it becomes necessary to restore a mobile device to its original condition, the City will not be held responsible for the loss of any software, documents, photos or other content that may be deleted due to the need to re-format and/or re-image the mobile device. Any applications, software, files, or content downloaded via the Internet into the City systems become the property of the City and may only be used in ways that are consistent with applicable licenses, trademarks, or copyrights.

Files from sources that a user may have any reason to believe may be untrustworthy shall not be downloaded, nor shall files attached to email transmissions be opened and read unless the user has knowledge that they originate from a trustworthy source. Downloaded files and attachments may contain viruses or hostile applications that could damage the City's information systems. Users will be liable for any expenses incurred by the City arising from a user's breach of security caused by files obtained for non-City business purposes.

5. **Life of the mobile device.** The technological life of the mobile devices will vary; therefore, the mobile devices will be assessed periodically and, when necessary, the City will purchase



upgraded devices through the budgeting process. Decommissioned devices will be placed in the City surplus sale for public auction.

6. **Security of the mobile device.** The user shall maintain a secure PIN or other password protection and a time-out setting on the device to avoid access by unauthorized users, and shall physically secure the mobile device to restrict unauthorized access. The PIN must be provided to the City Clerk's Office and through the Clerk's Office made accessible to the Information Technology (IT) Department. The PIN may not be shared with any unauthorized users.
7. **WARNING – NO PRIVACY.** There is no privacy granted to any user regarding use of a City-provided mobile device. The City retains the absolute right to inspect, retain, or otherwise gather any Internet-related data or evidence of activity including e-mail, e-mail attachments, downloaded files, or browser history of sites visited using any City-provided mobile device. Users of City-provided mobile devices should consider any Internet activity or other mobile device use to be monitored by the City. Communications, whether relating to City business or not, made via City-issued devices may be subject to disclosure under the Public Records Act or for litigation purposes unless a privilege or exception exists that justifies withholding the information.
8. **Audits.** All mobile devices are subject to audit by the Information Technology Department. If contacted by IT, users have three days to provide their mobile device to the IT Director. They may be provided a "loaner" to use in the interim. Typically, the IT Department will return the mobile device to the user within five business days.
9. **Representations.** In any posting to public forums, networking sites, or e-mail correspondence, users must take care to ensure that their personal statements, views and opinions are not misconstrued as official positions of the City. Users may not represent their statements as official City policy unless authorized to do so.
10. **Email Usage for City Business.** For the purposes of activity related to City business, the user shall conduct all email communication through their assigned City email account. To preserve public records, all email messages that are sent to or from a user's City email account on the mobile device are routed through a City server and archived on the City computer network. Such messages may be public records that are subject to public access and inspection. Mobile device users have no expectation of privacy in those messages. The user's City email account may be synced to the user's individual mobile device. Personal email boxes may be synced to the City-provided mobile device as well, but all City-related business must be conducted through the City email address or copied to the City email address if the user's personal email box is used.

Text messages sent to or from a user's City-provided mobile device are not routed through a City server or archived on the City computer network, and hence, are not preserved as public records. Users may not use text messages for communications about City business that must be preserved as public records for their informational value or as evidence of the organization or operation of the City. A user's use of a City-provided mobile device to send text messages for City business



must be limited to communications that are transitory—those that after their immediate use will have no value as evidence of the organization or operation of the City, such as routine appointment and scheduling requests.

11. **Acceptable Use.** The mobile device, Internet and email access provided are tools for conducting City business. Thus, use of such tools will be primarily for City business related purposes; i.e., to review City Council agenda materials, obtain useful information for City-related business communications as appropriate. All of the City’s computer systems, including the mobile device, are considered to be public property. Mobile device, Internet, and email activities will be traceable to the City and may impact the reputation of the City. Users are expected to exercise good judgment and restraint in their personal use of City-provided mobile devices. City-issued mobile devices shall not be used to send or knowingly download any vulgar, discriminatory, or pornographic content. Users shall refrain from making any false or defamatory statements or committing otherwise unlawful, unprofessional or unethical acts utilizing a City-issued mobile device.

City-issued mobile devices are not to be used for operating a business for personal gain, sending chain letters, or for any other purpose that interferes with normal City business activities. Users shall not use City-issued mobile devices for any illegal activity.

Except in an emergency, users shall not use email, instant messaging, text messaging, or similar forms of electronic communications at any time during a meeting of the City Council. Users shall not use the mobile device in any way as to violate the Open Meetings Act requirements of the State of Alaska.

Mobile device users are allowed to have music and install applications on their mobile device; however, the items downloaded and synced to the mobile device must be in compliance with Federal copyright laws and shall be acquired at the expense of the user and will be deemed surrendered and forfeited, including any content created by a user on the mobile device, when the mobile device is decommissioned. All applications used in the course of business-related activities shall be secured in conjunction with the City Clerk’s Department.

12. **User Responsibility.** It is the responsibility of the user to ensure the City-provided mobile device is kept in a reasonable and safe condition. Should a mobile device be accidentally lost, damaged, or stolen, responsibility for replacement shall be as follows:
  - a. First time: City shall repair or replace at no cost to the user.
  - b. Second time: The City shall pay half the cost of repair or replacement and the user shall pay half the cost.
  - c. Thereafter: The user shall be entirely responsible for repair or replacement costs and shall replace the unit within two weeks of the equipment loss.

Mobile devices that are damaged or destroyed through intentional misuse must be repaired or replaced at the user’s expense.



The user of the device must notify the City Clerk's Office immediately or as soon as practicable upon loss, theft or suspected loss/theft of the device. Where possible, the contents of the device will be remotely erased and the services associated with the device will be disabled.

13. **Return of the mobile device.** Users shall return their mobile device to the City Clerk's Department when the individual's term and service as Mayor or Councilmember has ended. Upon return of the mobile device to the City and following the preparation of any appropriate backup files, the mobile device will be wiped clean of any and all information.
14. **Indemnification.** The City bears no responsibility whatsoever for any legal action threatened or commenced due to conduct and activities of users in accessing or using these resources. All users agree to indemnify and hold harmless the City against any and all claims of any kind or nature whatsoever for damages, including tangible and intangible damages, costs and expenses suffered by the City arising out of any unlawful or improper conduct and activity related to City-provided mobile devices, and in respect of any action, settlement or compromise, or any statutory infringement.
15. **Compliance with Policy.** Any violation of this policy may result in discipline as deemed appropriate by the City Council.

I hereby certify that I have received a written copy of the City Council Mobile Device Acceptable Use Policy. I have read and fully understand the terms of this policy and agree to abide by it.

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
(Elected Official's Signature)

\_\_\_\_\_  
(Printed Name)