
TOWN OF WILSON CREEK POLICY AND PROCEDURE

Subject: COUNCIL RULES OF PROCEDURE		Index: COUNCIL	
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1.0 INTRODUCTION

It is up to every Town Council to establish rules for the conduct of their meetings. The Council has determined that adopting these Council Rules of Procedure will make Council meetings more efficient and professional and will instill the public's confidence in Town government.

2.0 GENERAL RULES

- 2.1 Attendance, Excused Absences: A Council member may be removed from office following procedure in Section 15.4.3, when that Council member fails to participate in at least one Council meeting within a 60-day period without a valid excuse. To be excused, the member shall contact the Mayor before the meeting and give the reason for his/her inability to attend the meeting. If the member cannot contact the Chair, the member shall contact the Town Clerk or Deputy Town Clerk, who shall convey the message to the Chair. The Mayor shall inform the Council of the member's absence and reason therefore, and ask if there is a motion to excuse the member. The Council may excuse an absent member by a majority vote. The Town Clerk will note in the minutes whether the member's absence was excused or unexcused.
- 2.2 Journal of Proceedings: A journal of all proceedings (minutes) of the Council shall be kept by the Town Clerk and shall be entered in a book constituting the official record of the Council.
- 2.3 Right of Floor: Any member desiring to speak shall first be recognized by the Chair.
- 2.4 Decorum: All members shall preserve order, decency and decorum at all times while the Council is in session. No member shall, by conversation or otherwise, delay or interrupt the proceedings or the peace of the Council, nor disturb any member who is speaking. No member shall refuse to obey an order of the Chair. Members shall confine their remarks to one subject under consideration or to be considered. Discussion shall relate to the subject under consideration and shall be relevant and pertinent thereto so as to provide for the expeditious disposition and resolution of the Town's business. No member shall use any impertinent, degrading or slanderous language as to any other member, staff, or public. There shall be no lectures, speeches or grandstanding. For purposes of this section, "member" includes the Mayor.
- 2.5 Town Staff Decorum: Town staff and employees shall observe the same rules of order and decorum as are applicable to the Council.

- 2.6 Council Roles: The Town Council is to work through the Mayor when dealing with administrative services of the Town. Members of the Town Council must avoid intrusion into those areas that are the responsibility of staff. Individual Council members may not intervene in staff decision-making, the development of staff recommendations, scheduling of work, and executing department priorities without the prior knowledge and approval of the Town Council as a whole. This is necessary to protect the staff from undue influence and pressure from individual Council members, and to allow staff to execute priorities given by management and the Council as a whole without fear of reprisal. If a Council member wishes to influence the actions, decisions, recommendations, workloads, work schedule, or priorities of staff, that member must prevail upon the whole Council to do so as a matter of Council policy.

No Council member, directly or indirectly, shall become involved in or attempt to influence personnel matters that are under the direction of the Mayor. The Council is not prohibited, while in open session, from fully and freely discussing with the Mayor anything pertaining to appointments and removals of Town officers and employees and Town affairs.

The Town Council acts as a whole in representing the Town. Individual Council members do not have authority to act on behalf of the entire Council or to represent the Council unless the Council has approved such action by majority vote. If an individual Council member wishes to contact an outside agency or business regarding Town business, the Council member shall identify to that agency or business that he or she is making the contact as an individual, and not as a representative of the Council. Any information that the individual Council member requests from the agency or business that the Council member wishes to present to the Town Council for consideration shall be submitted in writing from the agency or business.

- 2.7 Town Council/Mayor Relationship: The relationship between the Mayor and the Town Council honors the fact that the Mayor is the chief executive of the Town. The Council's dealings with the Mayor, whether in public or private, should respect the authority of the Mayor in administrative matters. Disagreements should be expressed in policy terms, rather than in terms that question satisfaction with or support of the Mayor.

The Mayor respects and is sensitive to the policy responsibilities of the Council and acknowledges that the final responsibility for establishing the policy direction of the Town is held by the Town Council.

- 2.8 Ethical Standards: In order to avoid becoming involved or implicated in a conflict of interest or impropriety, or, just as important, an appearance of conflict of interest or impropriety, public officials and town employees shall not:

2.8.1 Knowingly use their office or position for personal or family gain or profit; or

2.8.2 Use town-owned property or town services for personal or family gain or profit; or

2.8.3 Use information acquired in confidence by reason of their official position from a town customer, supplier, lessee or contractor for other than town purposes.

2.8.4 Conflicts of Interest

- 2.8.4.1 Public officials and town employees shall not knowingly engage in activities which are in conflict, or which have the potential to create conflict, with performance of official duties. Examples of conflicts or potential conflicts of interest include, but are not necessarily limited to, circumstances where a public official or town employee:
- (a) Influences the selection or non-selection of, or the conduct of business between the town and any entity in which the public official, town employee or their spouses or domestic partners has a financial interest.
 - (b) Accepts any retainer, compensation, gift or anything of value that is contingent upon a specific action or nonaction by the public official or town employee.
 - (c) Intentionally uses or discloses information not available to the general public and acquired by reason of his or her official position which benefits himself or herself, family, friends, or others.
- 2.8.4.2 Public officials and town employees shall not take part in any council action, as that term is defined in Chapter 42.30 RCW, concerning any contract, property, or other matter of any kind, in which the public official, town employee, or his or her immediate family has a financial interest, or which otherwise creates a conflict of interest.
- 2.8.4.3 Public officials and town employees shall not be deemed to violate subsection (2) of this section when they only have a remote interest in a contract or sale. Public officials and department heads shall disclose the fact and extent of a remote interest for the official minutes of the town council prior to the town council taking any action related to the interest and thereafter all action taken by the town council related to such interest shall be by vote sufficient for the purpose without counting the vote of the public official or town employee having the remote interest.
- 2.8.4.4 Members of the town of Wilson Creek, Washington, town council and town staff are prohibited from being awarded contracts with the town. Notwithstanding subsection (4) of this section, public officials and town employees may have a beneficial interest in a contract with the town under the following circumstances:
- (a) If an item of business relating to the contract comes before the public official or town employee, the official or employee must identify the contract on the record and recuse himself or herself from acting in any way on that item. The individual shall not remain in the meeting room during the discussion of that item; and
 - (b) The official or employee has not lobbied the town to enter into the contract; and

- (c) The official or employee has not influenced town policy with the primary purpose of creating the need for the contract; and
- (d) The contact cannot be made by, through or under the supervision of the official or employee, in whole or in part, or for the benefit of his or her office.

2.8.5 Gifts and Gratuities: Public officials and town employees shall not, directly or indirectly, solicit any gift or accept or receive any gift, whether it be money, services, loan, travel, entertainment, hospitality, promise, or any other form, under the following circumstances:

- (a) It could be reasonably inferred or expected that the gift was intended to influence them in the performance of their official duties; or
- (b) The gift was intended to serve as a reward for any official action on their part. Public officials and town employees may accept de minimis gifts such as, but not limited to, calendars, coffee mugs, flowers, candy, and other similar items that are given as a customary business practice and have no material significance to the recipient, with such gifts from any one source not to exceed \$100.00 in value in any 12-month period. Town employees should report any gift to their immediate supervisor.

This section shall not apply to gifts made to the town. All such gifts shall be given to the Mayor for official disposition.

2.8.6 Confidential Information – Disclosure Prohibited: Public officials and town employees shall not, except as required or reasonably believed to be required for the performance of his/her duties, disclose confidential information gained by reason of his/her official position or use such information for his/her own personal interest. “Confidential information” is all information, whether transmitted orally or in writing, that the employee has been informed, is aware, or has reason to believe is intended to be used only for town purposes, is not intended for public disclosure, or is otherwise of such nature that is not, at the time, a matter of public record or public knowledge. Confidential information includes, but is not limited to, personal information regarding town officials and employees; private financial and other personal information provided by town taxpayers, license holders, contractors, and customers; intelligence and information, including the identity of persons filing complaints; formula, designs, drawings, and research data obtained or produced by the town and preliminary, nonfinal assessments, or opinions, and recommendations concerning town policies and actions. Any public official who is uncertain as to whether certain information is confidential should consult the mayor.

3.0 PRESIDING OFFICER

- 3.1 Mayor: The Mayor shall preside at meetings of the Council, and be recognized as the head of the Town for all ceremonial purposes. In case of the Mayor’s absence or temporary disability, the Mayor Pro Tempore shall act as Mayor during the continuance of the absence. In case of the absence or temporary disability of the Mayor and Mayor Pro Tempore, the members of the Council shall select a member to act as Mayor during the continuance of the absences.

The Mayor or Mayor Pro Tempore are referred to as the “Chair” or “Presiding Officer” from time to time in these Rules of Procedure.

- 3.2 Call to Order: The meetings of the Council shall be called to order by the Mayor or, in the Mayor’s absence, by the Mayor Pro Tempore. In the absence of both the Mayor and Mayor Pro Tempore, the meeting shall be called to order by the Town Clerk or Clerk’s designee for the election of a temporary chair.
- 3.3 Preservation of Order: The Mayor shall preserve order and decorum, prevent attacks on personalities or the impugning of members’ or public motives and confine members or public in debate to the question under discussion.
- 3.4 Points of Order: The Mayor shall determine all points of order, subject to the right of any member to appeal to the Council. If any appeal is taken, the question shall be, “Shall the decision of the Mayor be sustained?”
- 3.5 Questions to be Stated: The Mayor shall state all questions submitted for a vote and announce the results. A roll call vote shall be taken upon request of any member.
- 3.6 Mayor – Voting Powers: The Mayor may vote to break a tie vote of the Council except with respect to the passage of any ordinance or resolution granting a franchise (RCW 35.27.280 as now enacted or hereafter amended). The Mayor may veto an ordinance, but the Mayor’s veto can be overruled by a majority plus one of the entire Council membership (RCW 35A.12.130 as now enacted or hereafter amended).

4.0 COUNCIL MEETING AGENDA

- 4.1 The Town Clerk, under the direction of the Mayor, shall arrange a list of proposed matters according to the order of business and prepare an agenda for the Council. After the proposed agenda has been approved by the Presiding Officer, a copy of the agenda and supporting materials shall be prepared for Council members, the Mayor, and the press on or before a regular Council meeting. The Presiding Officer shall have the option of deleting any item from the agenda until the next regular Council meeting when the full Council shall vote on whether to place the item on the current agenda or schedule it for a subsequent Council meeting. The Presiding Officer, three (3) Council members, or the Mayor may introduce a new item to the agenda.
- 4.2 The Consent Agenda may contain items which are of a routine and non-controversial nature and may include, but are not limited to, the following: meeting minutes, payroll, claims, budget amendments, park use requests, parade permits, and any item previously approved by Council with a unanimous vote and which is being submitted to Council for final approval. Any item on the Consent Agenda may be removed and considered separately as an agenda item at the request of any Council member or any person attending a Council meeting.
- 4.3 Council Agenda: The Town Clerk shall prepare the agenda for Council meetings in accordance with the procedure outlined in Section 4.1. Subject to the Council’s right to amend the agenda, no legislative item shall be voted upon which is not on the Council agenda, except in emergency situations as determined by a majority vote of the Council.

5.0 MOTIONS

- 5.1 Members who wish to make a motion must first be recognized by the Presiding Officer. After the member makes a motion, and after the motion is seconded if required, the Mayor must then restate it or rule it out of order, then call for discussion. Most motions require a second, although there are some exceptions: nominations, points of order, requests to remove an item from the consent agenda, and motions to table.
- 5.2 A motion to table does not require a second and is not debatable. The Presiding Officer will state the motion and call for the vote.
- 5.3 Motions for reconsideration must be made by a member from the prevailing side. Any member may make the second. The following rules apply to motions for reconsideration:
 - 5.3.1 Motion must be in a timely manner but in no instance more than six (6) months after the original action.
 - 5.3.2 When six (6) months has elapsed, any member may bring the item before the Council.
 - 5.3.3 No motion to reconsider an adopted quasi-judicial written decision shall be entertained after the close of the meeting at which the written findings were adopted.

6.0 VOTING

- 6.1 The votes during all meetings of the Council shall be transacted as follows:
 - 6.1.1 Unless otherwise provided for by statute, ordinance, or resolution, all votes shall be taken by voice, except that at the request of any Council member, the Clerk shall take a roll call vote. The Presiding Officer shall determine the order of the roll call vote.
 - 6.1.2 The passage of any ordinance, grant or revocation of a franchise, any motion or resolution for the payment of money, and any approval of warrants shall require a majority vote of the whole Council.
 - 6.1.3 The passage of any public emergency ordinance (an ordinance that takes effect immediately), expenditures for any calamity or violence of nature or riot or insurrection of war, and provisions for a lesser emergency shall require a quorum of Council.
 - 6.1.4 Council members shall vote on all matters before the Council unless a statutory conflict of interest exists. If there is a conflict of interest, that Council member shall abstain from voting. If any Council member refuses to vote "aye" or "nay," their vote shall be counted as a "nay" vote and their conduct shall be considered disorderly and malfeasance of office. Council members may not abstain from voting except in the event of a statutory conflict of interest, which must be stated for the record. Abstentions shall be treated as the absence of a vote and the abstaining member shall not be counted as present.

7.0 AUDIENCE PARTICIPATION

- 7.1 Manner of Addressing the Council: Each person addressing the Council shall step up to the podium/microphone if being used, give his/her name and address and subject matter of comments in an audible tone of voice for the record and, unless further time is granted by the Chair, shall limit their address to three minutes. All comments shall be made to the entire Council and not to any single member nor to staff. Any questions for Council members or staff shall be presented through the Presiding Officer. The Council will determine the disposition of any issues raised (e.g., placed on the present agenda, workshop, other agendas, refer to staff, or do not consider).
- 7.2 Conduct of Audience: All audience members shall abide by the rules of decorum contained in Section 2.4. No audience member shall disrupt the conduct of the meeting or clap, cheer, hoot, holler, gesture, whistle, guffaw, jeer, boo, hiss, make remarks out of turn, use profanity, or the like. Any audience member who does so shall be determined out of order and the Presiding Officer may have such person removed from the council chambers immediately. Such person shall not be permitted to attend the remainder of that Council meeting.

8.0 COMPLAINTS TO COUNCIL

- 8.1 Any person may submit a written complaint to the Mayor alleging one or more violations of this ethics code by a public official. If said complaint or allegation is against the Mayor the complaint shall be submitted to the Mayor pro-tem. The allegation shall set forth specific facts with precision and detail, sufficient for a determination of sufficiency by the mayor. Complaints should be signed by the person or persons submitting them, including the submitter's correct name, address at which mail may be personally delivered to the submitter, and the telephone number at which the submitter may be contacted.
- 8.2 The mayor or his/her designee shall inform the public official and the council of the complaint and shall submit the complaint to the town council for determination of sufficiency of the complaint within 3 business days of its receipt. Voice mail, e-mail or similar notification of the defendant is acceptable if actual notice is not immediately practicable. A copy of the complaint shall also be sent to the defendant by registered mail within 3 business days of receipt. A complaint cannot be sufficient unless it precisely alleges and describes unjustified acts which constitute a prima facie showing of a violation of a specified provision or provisions of this code.
- 8.3 The complainant shall have the responsibility for proving the allegations in the complaint by a preponderance of the evidence.
- 8.4 Complaints shall be subject to a one year statute of limitations. The limitations period shall commence from the date that information on completion of the alleged misconduct was reasonably available to the public.
- 8.5 Complaints may be amended as authorized by the decision-maker as justice requires; provided, that the time frames of the review process provide the defendant with a fair opportunity to respond.

- 8.6 All public officials and employees, excluding the alleged violator, shall observe strict confidentiality as to the complaint and alleged violator until the review is complete, to the extent that the information is acquired as a result of a person's status as a public official or employee.
- 8.7 In the event the final determination by the town council provides that the individual against whom the complaint has been filed has violated the code of ethics, the council shall convene and render its decision within 30 days of the receipt of said determination unless an extension is requested by the defendant and granted by the council. In the event that the town council members agree by majority vote that one or more of the violations occurred, then as to the violations the town council may take any of the following actions by a majority vote of the council; provided, that penalties may only be based upon violations alleged in the complaint or amended complaint and not upon other violations discovered during the complaint process:
- i. Admonition: An admonition shall be a verbal nonpublic statement made by the Mayor to the individual.
 - ii. Reprimand: A reprimand shall be administered to the individual by letter. The letter shall be approved by the town council and shall be signed by the mayor. If the individual objects to the content of such letter, he or she may file a request for review of the letter of reprimand with the town council. The town council shall review the letter of reprimand in light of the report and the request for review, and may take whatever action appears appropriate under the circumstances. The action of the town council shall be final and not subject to further review.
 - iii. Censure: A censure shall be a written statement administered personally to the individual. The individual shall appear at a time and place directed by the town council to receive the censure. Notice shall be given at least 20 days before the scheduled appearance at which time a copy of the proposed censure shall be provided to the individual. Within five days of receipt of the notice, the individual may file a request for review of the content of the censure. The town council shall review the proposed censure in light of the report and the request for review, and may take whatever action appears appropriate under the circumstances. The action of the town council shall be final and not subject to further review. If no such request is received, the censure shall be administered at the time and place set. It shall be given publicly, and the individual shall not make any statement in support of or in opposition thereto or in mitigation thereof. A censure shall be deemed administered at the time it is scheduled whether or not the individual appears as required.
 - iv. Removal: In the event the individual against whom the complaint has been filed is a member of a town board, commission, committee, or other multi-member bodies appointed by the Mayor with the approval of town council, the town council may, by a majority vote, remove the individual from such board, commission or committee; provided, however, that nothing in this section authorizes the town council to remove a council member or the Mayor from his or her office.
- 8.8 Action by the town council shall be by majority vote. If the proceeding involves a member of the town council, the member does not vote on any matter involving the member. As provided

in RCW 35.27.280 and clarified in RCW 35.27.270 and 35.27.330, the Mayor shall vote in the case of a tie, except if the action is against the mayor. Deliberation by the council may be in executive session; however, upon request of the person complained against, the meeting shall be open to the public.

8.9 A complaint cannot be sufficient unless it precisely alleges and describes unjustified acts, which constitute a prima facie showing of a violation of a specified provision or provisions of this code.

8.10 Specific Complaint Against a Town Employee: In the event the individual against whom the complaint has been filed is a town employee, the town shall follow the appropriate discipline, through the employee's supervisor the Mayor and/or department head, Employees also have the right to appeal through the court system as regulated by state and federal law..

9.0 FILLING COUNCIL VACANCIES

9.1 Notice of Vacancy: If a Council vacancy occurs, the Council will follow the procedures outlined in RCW 42.12.070. 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 and the procedure and deadline for applying for the position.

9.2 Letters of Interest: The Council will announce the vacancy and will accept letters of interest from any interested, qualified person.

10.0 EXECUTIVE SESSIONS

If the Council convenes an executive session to discuss what is permitted by law, there is no valid reason to disclose publicly what was discussed and reviewed privately. Everything which is discussed during an executive session, and all written materials which are reviewed during an executive session, shall be considered confidential and no Council member shall publicly disclose any such information. The Council finds that disclosing publicly what was discussed and reviewed during an executive session undermines the whole purpose of meeting in executive session. Public disclosure may be made in the event a majority of the Council members vote to approve the public disclosure prior to its disclosure. Any request for such a vote shall be first raised during an executive session for discussion purposes prior to a vote in open session

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

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

12.0 PRESERVING THE ATTORNEY CLIENT PRIVILEGE

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

13.0 GOOD FAITH COOPERATION WITH INSURANCE CARRIER

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

14.0 *ULTRA VIRES* ACTIONS

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

15.0 VIOLATION OF COUNCIL RULES OF PROCEEDINGS

15.1 These Rules of Procedures/Proceedings are adopted with the intent that they be fully enforceable and that violations thereof result in Council action against members as provided herein and pursuant to RCW 35.27.280 and Title 35 RCW, as now enacted or hereafter amended. Any violation of these Rules of Procedure/Proceedings is deemed to constitute disorderly conduct by such member.

15.2 Any claim of violation of these Rules of Procedure must be made in writing by a Council member and filed with the Town Clerk and made a part of the minutes of the Council meeting where the charge is first considered.

15.3 Violations of Rules Nos. 10.0-14.0 above shall be as follows:

15.3.1 Any member violating Rules of Procedure Nos. 10.0-14.0 above, may be subject to removal from office pursuant to the process set forth in subparagraph 15.4.3 below, unless the Council determines to utilize the admonition and reprimand process contained in subparagraphs 15.4.1 and 15.4.2 below.

15.4 Members violating any other Rules of Procedure shall be subject to admonition for the first violation of a particular rule, reprimand for a second or third violation of that same rule, and removal from office on the fourth violation of that same rule as follows:

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

15.4.2 Reprimand: A reprimand shall be administered to the member by letter. The letter shall be prepared by the Town Council after action in open session to approve such letter. If the member objects to the contents of such letter, he/she may file a request for review of the content of the letter of reprimand with the Town Council. The Town Council shall

review the letter of reprimand based upon the request for review and any record established, and may take whatever action appears appropriate under the circumstances.

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

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

16.0 AMENDMENT OF THESE RULES

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

17.0 PROCEDURES

The town council shall, from time to time, adopt rules of procedure for the orderly conduct of business at any public meeting. These rules shall generally follow the guidelines attached to the ordinance codified in this chapter and Robert's Rules of Order. The guidelines attached to the ordinance codified in this chapter are the rules of procedure of any official town meeting wherein a record is kept.

18.0 SEVERABILITY

If any section, subsection, paragraph, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this chapter, it being hereby expressly declared that this chapter and each section, subsection, paragraph, sentence, clause, sections, subsections, paragraphs, sentences, clauses, or phrases be declared invalid or unconstitutional.