



**CITY OF KIRKLAND**  
**City Manager's Office**  
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## **MEMORANDUM**

**To:** Kurt Triplett, City Manager

**From:** Marilynne Beard, Deputy City Manager  
Robin Jenkinson, City Attorney

**Date:** May 17, 2015

**Subject:** CITY COUNCIL POLICIES AND PROCEDURES

### **RECOMMENDATION:**

City Council:

1. Discusses proposed updates to the City Council Policies and Procedures regarding:
  - a. Council Committees
  - b. Petitions
  - c. Board and Commission Appointments
2. Reviews information regarding the initiative and referendum process.
3. Reviews the Public Safety Committee's updated list of outstanding agenda items.

### **BACKGROUND DISCUSSION:**

Since the last retreat in February, the Finance and Administration Committee has continued its review of proposed amendments and additions to the City Council Policies and Procedures. For reference, a copy of the currently adopted City Council Policies and Procedures is included as Attachment A.

### **Council Committees**

The Finance and Administration Committee focused on the Council Committees policy, in particular the issues of whether and how to make committee meetings open to the public and how committee agenda items are generated.

#### Public Standing Council Committee Meetings

A draft Council Committees policy was presented to the City Council at their April 21, 2015, meeting, however no action was taken and the policy was referred back to the Finance and Administration Committee with a request for further consideration of opening all committee meetings to the public. In particular the Legislative Committee, while it convenes every year for a portion of the year, has an irregular schedule and location. The Finance and Administration Committee recommends that the Legislative Committee be removed from the list of Standing Committees, since their schedule is intermittent. The Finance Committee recommends that all remaining standing committees be open to the public but that standing committees do not take

public testimony nor allow public participation in the discussion. Additional non-committee Councilmembers should not attend open Committee meetings except in special circumstances as determined by the Committee or the full Council.

## Agenda Topics

A list of outstanding committee agenda topics was generated by staff. The Public Safety Committee had an opportunity to review their list of items to determine if there were items that should be removed. At the time of the Committee's review, staff suggested several criteria to consider when determining whether a topic is appropriate for Council Committee discussion and how agenda topics are generated.

*Council Committees will be assigned an agenda topic when it supports a policy or budget decision that will come before the City Council. Agenda items may be:*

- *Identified by the Committee and approved by the City Council;*
- *Referred by City Council to a committee for monitoring or input, or;*
- *Referred by staff for early input prior to presentation to the City Council.*

The Public Safety Committee was provided these criteria to edit their list of outstanding agenda topics and their revised list and memo discussing their process is included in Attachment B.

The Public Safety Committee suggested two additional concepts for agenda topics. The first was to make it clear *that Committees do not have final decision making authority over any topic and cannot keep a topic from moving to the full Council by inaction or remove topics without approval from the full Council.* The Public Safety Committee recommends that the Council adopt a formal policy to review at least biennially topics for all Committees to determine which agenda topics should continue to remain on Committee lists. The Public Safety Committee also suggested that Committees ask themselves *"what product will this agenda item deliver from the Committee to the full Council to aid in policy or budget decisions"* for each agenda topic.

An updated version of the Council Committees policy is included as Attachment B.

## **Board and Commission Appointments**

The Finance and Administration Committee asked for consideration of a change to Chapter 8 "Board and Commission Appointments." Specifically, it was suggested that incumbent commissioners that are eligible for an additional term and want to continue their service could be appointed for a second term without conducting a recruitment for their seat. The Committee suggested that the ad hoc Council Committee chosen to review applications meet twice. The first meeting would be conducted prior to the recruitment process. Prior to the first meeting, staff would have contacted eligible incumbents to determine if they intend to reapply. If the incumbent is intending to apply, the ad hoc committee can recommend to the full Council that the incumbent be reappointed. If the City Council agrees, no recruitment would be conducted for the position and the incumbent would be appointed for a second term at the time all other board and commission appointments are made.

Following Council discussion and direction, an updated version of Chapter 8 will be prepared for Council adoption.

## **Petitions**

The Council's practice of including petitions on its agenda is to publicly acknowledge receipt of the petition and ensure that the Council and public are aware of the action that the petitioners wish the council to take (or not to take). Depending on what the petition seeks, the Council may ask staff for a briefing or to have the subject of the petition placed on a future Council agenda for consideration. The Finance and Administration Committee noted that there was no written policy regarding how petitions are received and dealt with by the City Council and discussed the possible actions that could be taken on a petition. Staff is recommending that a new section be added to Chapter 3, "City Council Meetings" of the Council Policies and Procedures. The proposed language would be inserted as section 3.08:

*3.08 Petitions. In the event that the City Council is presented with a petition from a citizen, the City Council will take a formal vote providing direction which may include any of the following options:*

- 1. Accept the petition and refer the matter to a Council Committee for further study.*
- 2. Accept the petition and refer to staff for follow-up.*
- 3. Accept the petition and determine that no further action is needed.*

*Any petition referred to a Council Committee or staff will be presented at a subsequent regular meeting with an explanation of the resolution.*

*In order to be considered complete, a petition should include each signer's name and their city of residence.*

Following Council discussion and direction, an updated version of Chapter 3 will be prepared for Council adoption.

## **Initiative and Referendum**

At a previous retreat, a request was made for the City Council to consider adding a provision for initiatives and referendums to the Kirkland Municipal Code. The following background is provided as a point of departure for Council discussion.

The initiative power refers to the ability of citizens to directly enact legislation. By contrast, the referendum power refers to the ability of citizens to approve or disapprove legislation that has already been passed by legislative bodies.

At the local level, the initiative power is available only to the extent that the Legislature has authorized that power. State statutes classify cities based on population.<sup>1</sup> As an alternative cities may operate as code cities under title 35A, the optional municipal code, which grants broad powers to cities. Kirkland is a noncharter code city. The Legislature has authorized first

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<sup>1</sup> A first-class city is a city with a population of 10,000 or more at the time of organization or reorganization that has adopted a charter. RCW 35.01.010. A second-class city is a city with a population over 1,500 at the time of organization or reorganization that does not have a charter and does not operate as a code city under the optional municipal code. RCW 35.01.020. A town has a population of less than 1,500 at the time of its organization and does not operate under the optional municipal code. RCW 35.01.040.

class cities and code cities to adopt local initiative and referendum powers. To adopt those powers, code cities must follow certain procedures discussed below.

### Limits on the Local Initiative Power

The exercise of the initiative power at both the state and local levels is limited to actions which are legislative in nature. Two tests have been suggested for determining whether an issue is legislative or administrative. First, actions relating to subjects of a permanent and general character are usually regarded as "legislative" and subject to the powers of initiative and referendum. Those actions taken on subjects of a temporary and special character are usually regarded as "administrative" and are not susceptible to the powers. *Citizens v. Spokane*, 99 Wn.2d 339 (1983). A second test suggests that a matter is legislative if it prescribes a new policy or plan and administrative if it merely pursues a plan that has already been adopted.

Initiatives must also be within the authority of the jurisdiction passing the measure. For example, the State Supreme Court ruled that a local initiative that would have blocked the construction of Interstate 90 was outside the scope of the initiative process, because the initiative conflicted with state law. *Philadelphia II v. Gregoire*, 128 Wn.2d 707 (1996).

Another limitation on the initiative power is that it may not be used if the Legislature statutorily delegates a particular power to the "legislative body" or "legislative authority" of the city government (as opposed to the corporate entity itself). For example, in *Priorities First v. City of Spokane*, 93 Wn. App. 406 (1998), the Court of Appeals kept an initiative off the ballot that would have required voter approval before the Spokane City Council could use city funds to construct off-street parking facilities. The Court ruled that the proposed initiative would have interfered with the power the Legislature granted to the city council to construct parking facilities and was outside the scope of the initiative power.

In sum, citizens may exercise local initiative powers if the subject matter of the initiative is:

- Legislative in nature;
- The power is within the scope of the city's authority; and
- The power over the subject matter has not been specifically granted to the city council.

However, citizens who file initiatives may not know of the limitations or may not believe those limitations apply to their initiative. This can lead to initiatives being filed that are outside the scope of the initiative authority and create the potential for litigation. If a city has concerns about whether a proposed initiative is legal, it can seek an opinion about the legality of the measure – before it passes. Although courts generally will not rule on the validity of initiatives until they are passed, attorneys for the city may issue opinions as to whether a particular measure would be upheld if enacted. Issuing a legal opinion on a pending ballot measure may be controversial because it is likely to be viewed as attempting to drive a particular outcome.

### Adopting the Initiative Power in Code Cities

There are two methods by which code cities may adopt initiative powers. See RCW 35A.11.080; 35A.02.020 - .035.

### Petition Method

- Registered voters of the city file a petition with the city clerk requesting the adoption of the powers of initiative and referendum.
- Petition must contain valid signatures equal in number to 50 percent of the votes cast at the last general municipal election.
- If the petition is sufficient, then the city council *must* adopt a resolution declaring the intention of the city to adopt the powers of initiative and referendum.
- City publishes notice of the resolution.
- If no referendum petition is filed within 90 days, then the city council must enact an ordinance formally adopting the powers of initiative and referendum
- If a valid referendum petition is filed, the issue goes on the ballot.

### Resolution Method

- The city itself may initiate the process by passing a resolution of intention and following the subsequent steps listed above.

### Initiative Procedures

The initiative process in code cities is provided by statute. *See* RCW 35A.11.100.

- The proposer of the initiative must obtain valid signatures on a petition equal in number to 15 percent of the total number of registered voters within the city as of the date of the last preceding city general election.
- Petitions in the form required by RCW 35A.01.040 are filed with the city clerk.
- The petitions with the signatures must then be transmitted to King County Elections (elsewhere the county auditor) to determine the validity of the signatures on the petition. King County Elections must attach a certificate to the petition indicating whether or not it has been signed by a sufficient number of registered voters.
- If the number of signatures is insufficient, then the petitioners have ten additional days to amend the petition. The amended petition is then resubmitted to the clerk.
- If King County Elections finds the number of signatures insufficient a second time, then the petition is returned. Any taxpayer then has the option of filing an action in superior court to determine if the petition is sufficient.
- If King County Elections determines that the number of signatures is sufficient, the city council has two options. The first option is for the city council to pass the proposed ordinance *without alteration* within 20 days. The second option is to submit the measure to a vote of the people.

- The city attorney prepares the ballot title.
- Once the ballot title is filed, King County Elections notifies persons proposing the initiative of the exact language of the ballot title. A person who is dissatisfied with the ballot title may file an appeal within ten days in the superior court of the county where the issue is to appear on the ballot. The court will hold a hearing and render a decision certifying the correct ballot title. The decision of the superior court is final.
- The election on the initiative will be at a general election if one is to be held within 90 days. Otherwise the vote will be at a special election.
- The city clerk must publish notice of the initiative.
- If a majority of the number of votes cast favor the proposed measure, it will become effective upon certification of the election results.

### Initiative Costs

### Election Costs

Council requested information about the potential costs of adopting initiative and referendum powers. The election costs associated with placing initiative and referendum measures on the ballot would vary depending on whether the City is participating in an odd numbered or even numbered year. During odd years, cities and other local jurisdictions (fire districts, utility districts, etc.) are already scheduled to participate in the primary and general elections.

Here is the election cost forecast provided by King County Elections for the City of Kirkland:

#### *Spring Special Election (February or April)*

- Election cost: \$103,000 – \$129,000
- Voters' Pamphlet cost: \$5,000 - \$6,200

#### *Primary Election*

- Election cost: \$72,000 - \$85,000
- Voters' Pamphlet cost: \$3000 - \$6,200 (likely to be at the higher end of range)

#### *General Election*

- Election cost: \$61,000 - \$72,000
- Voters' Pamphlet cost: \$3,000 - \$6,200 (likely to be at the lower end of range)

Note that if a new ballot measure is added to the ballot during an odd year, there is no additional cost because the City is already participating in the election due to the schedule of

City Council races. King County does not add incremental costs for additional ballot items. There is an exception with respect to the Voters' Pamphlet as this cost does increase with additional printed materials. However, the cost of the Voters' Pamphlet is only approximately two to five percent of the election costs.

If a new ballot measure is added during an even year election, the costs above will apply. For the 2016 elections, the 2015 estimates would be increased by a 2.25 percent inflation factor. The City usually does not have anything scheduled on the ballot during even years, so an initiative or referendum measure could be the only item on the ballot.

#### Additional Costs

In addition to the County election costs, additional time will be required of the City Clerk and City Attorney to carry out their duties in connection with initiatives. Ballot titles written by city attorneys are frequently the subject of superior court challenges. If an initiative passes and is challenged, the city generally must defend the initiative.

#### Experience of Other Cities

In considering whether to adopt the initiative and referendum powers, Council also requested information about the experience of other cities. Two recent examples are below. More examples could be evaluated if the Council seeks further analysis.

#### Tacoma Minimum Wage Initiative

Errors in initiatives are difficult to correct. Once an initiative is certified, it goes on the ballot as drafted. There is no opportunity to correct mistakes prior to the election – except by submitting a new initiative petition. In addition, once an initiative is enacted in a code city, it cannot be amended – except by a vote of the people. This means that the city council cannot merely amend or repeal such an ordinance by council action as is usually the case – even to correct an obvious error. Any change must be approved by the voters, although the city council can initiate that process. *See RCW 35.17.340.*

Tacoma is currently dealing with a challenging initiative proposal. An initiative petition has been filed which, if passed, would immediately impose a \$15 per hour minimum wage on all businesses that have annual gross revenues of \$300,000 or more. The minimum wage would be adjusted annually by the rate of inflation. The measure would create a citizen commission to monitor the City's administration and enforcement of the minimum wage requirements, and make violations a crime. A copy of the petition is included as Attachment C.

Apart from the policy questions posed by having a higher minimum wage becoming broadly effective immediately versus one phased in over several years, elements of the proposed measure are viewed by the Tacoma City Attorney's Office as unenforceable or otherwise infirm. There is no fiscal analysis provided nor required. The Tacoma Mayor recently announced the formation of a Minimum Wage Task Force to counter the proposed ballot measure. The Tacoma City Council approved a \$30,000 contract with a facilitator to guide the task force's work. The work of the task force must be completed by June 30 in order to give the Tacoma City Council time to put an issue on the November 3, 2015, ballot. If the proponents of the

current minimum wage initiative do not agree to withdraw their measure, the Tacoma voters may have two competing minimum wage measures on the ballot.

### Issaquah Plastic Bag Ban Initiative

Closer to home, the City of Issaquah received an initiative petition to overturn the City's ban on plastic bags. Once the King County Elections Division certified that the initiative petition had sufficient signatures in October 2013, the Issaquah City Council passed a resolution sending the measure to the February 11, 2014, ballot. As required by statute, the Issaquah City Attorney drafted a ballot title. The City was not able to agree with the initiative proponent on the language of the ballot title and the proponent challenged the ballot title in King County Superior Court. It was then necessary for the City to defend the ballot title in court. While this matter was not tracked from a cost accounting perspective, the Issaquah City Clerk's Office estimates that the expenditure for legal fees was approximately \$10,000 (Issaquah uses outside legal counsel). The City Clerk indicated that this amount could have been higher as the City dealt with the initiative issue from June 2012 through March 2014. The City Clerk further estimated that her time alone spent on the initiative may have exceeded 200 hours.

As discussed above, because this matter was sent to the ballot in an even numbered year and when Issaquah did not have another contest on the ballot there were additional election expenses. The election cost Issaquah \$38,702. At the special election on February 11, 2014, 52.32 percent of the voters voted against repealing the plastic bag ban.

### Arguments for and Against

The Municipal Research Services Center publication entitled, "Initiative and Referendum Guide for Washington Cities and Charter Counties," is an excellent resource and may be viewed at <http://mrsc.org/getmedia/18593ba0-fa89-4776-84dc-3dcab86b3449/initiativereferendumguide.pdf.aspx?ext=.pdf>. "Arguments for and against" from the publication are appended as Attachment D.

### **Summary of Direction Requested**

Staff is requesting Council direction regarding the following questions:

1. Should the Council Committees policy be amended as proposed to allow for public attendance at Standing Council Committee meetings?
2. Should the proposed criteria for adding new agenda topics for Council Committees be included?
3. Should staff prepare an amendment to Chapter 8 Boards and Commissions allowing the City Council to appoint an incumbent for a second term without conducting a recruitment?
4. Should the new proposed section on petitions be added to Chapter 3 City Council Meetings?
5. Does the City Council want to further discuss or receive additional information about the initiative and referendum process?

# Attachment A

## CITY OF KIRKLAND CITY COUNCIL POLICIES AND PROCEDURES



February 2015

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## CHAPTER 1: CITY COUNCIL VISION AND GOALS

**1.01 Vision.** Kirkland is an attractive, vibrant and inviting place to live, work and visit. Our lakefront community is a destination for residents, employees and visitors. Kirkland is a community with a small-town feel, retaining its sense of history, while adjusting gracefully to changes in the twenty-first century.

**1.01 Goals.** The purpose of the City Council Goals is to articulate key policy and service priorities for Kirkland. Council goals guide the allocation of resources through the budget and capital improvement program to assure that organizational work plans and projects are developed that incrementally move the community towards the stated goals. Council goals are long term in nature. The City's ability to make progress towards their achievement is based on the availability of resources at any given time. Implicit in the allocation of resources is the need to balance levels of taxation and community impacts with service demands and the achievement of goals.

**1.02** In addition to the Council goal statements, there are operational values that guide how the City organization works toward goal achievement:

- **Regional Partnerships** – Kirkland encourages and participates in regional approaches to service delivery to the extent that a regional model produces efficiencies and cost savings, improves customer service and furthers Kirkland's interests beyond the our boundaries.
- **Efficiency** – Kirkland is committed to providing public services in the most efficient manner possible and maximizing the public's return on their investment. We believe that a culture of continuous improvement is fundamental to our responsibility as good stewards of public funds.
- **Accountability** – The City of Kirkland is accountable to the community for the achievement of goals. To that end, meaningful performance measures will be developed for each goal area to track our progress toward the stated goals. Performance measures will be both quantitative and qualitative with a focus on outcomes. The City will continue to conduct a statistically valid citizen survey every two years to gather qualitative data about the citizen's level of satisfaction. An annual Performance Measure Report will be prepared for the public to report on our progress.
- **Community** – The City of Kirkland is one community composed of multiple neighborhoods. Achievement of Council goals will be respectful of neighborhood identity while supporting the needs and values of the community as a whole.

The City Council Goals are dynamic. They should be reviewed on an annual basis and updated or amended as needed to reflect citizen input as well as changes in the external environment and community demographics.

## **1.03 CITY COUNCIL GOALS**

### ***NEIGHBORHOODS***

**Value Statement:** The citizens of Kirkland experience a high quality of life in their neighborhoods.

**Goal:** Achieve active neighborhood participation and a high degree of satisfaction with neighborhood character, services and infrastructure.

### ***PUBLIC SAFETY***

**Value Statement:** Ensure that all those who live, work and play in Kirkland are safe.

**Goal:** Provide for public safety through a community-based approach that focuses on prevention of problems and a timely response.

### ***HUMAN SERVICES***

**Value Statement:** Kirkland is a diverse and inclusive community that respects and welcomes everyone and is concerned for the welfare of all.

**Goal:** To support a regional coordinated system of human services designed to meet the special needs of our community and remove barriers to opportunity.

### ***BALANCED TRANSPORTATION***

**Value Statement:** Kirkland values an integrated multi-modal system of transportation choices.

**Goal:** To reduce reliance on single occupancy vehicles and improve connectivity and multi-modal mobility in Kirkland in ways that maintain and enhance travel times, safety, health, and transportation choices.

### ***PARKS, OPEN SPACES AND RECREATIONAL SERVICES***

**Value Statement:** Kirkland values an exceptional park, natural areas and recreation system that provides a wide variety of opportunities aimed at promoting the community's health and enjoyment.

**Goal:** To provide and maintain natural areas and recreational facilities and opportunities that enhance the health and well-being of the community.

### ***DIVERSE HOUSING***

**Value Statement:** The City's housing stock meets the needs of a diverse community by providing a wide range of types, styles, size and affordability.

**Goal:** To ensure the construction and preservation of housing stock that meet a diverse range of incomes and needs.

### ***FINANCIAL STABILITY***

**Value Statement:** Citizens of Kirkland enjoy high-quality services that meet the community's priorities.

**Goal:** Provide a sustainable level of core services that are funded from predictable revenue.

### ***ENVIRONMENT***

**Value Statement:** We are committed to the protection of the natural environment through an integrated natural resource management system.

**Goal:** To protect and enhance our natural environment for current residents and future generations.

### ***ECONOMIC DEVELOPMENT***

**Value Statement:** Kirkland has a diverse, business-friendly economy that supports the community's needs.

**Goal:** To attract, retain and grow a diverse and stable economic base that supports city revenues, needed goods and services and jobs for residents.

### ***DEPENDABLE INFRASTRUCTURE***

**Value Statement:** Kirkland has a well-maintained and sustainable infrastructure that meets the functional needs of the community.

**Goal:** To maintain levels of service commensurate with growing community requirements at optimum life-cycle costs.

## **CHAPTER 2: CITY COUNCIL CODE OF CONDUCT**

### **2.01 Code of Conduct for City Council and Boards and Commissions.**

The Code of Conduct is supplemental to the Kirkland Municipal Code and the Code of Ethics and applies to the City Council and all members of City advisory boards and commissions. The Code of

Conduct describes how Kirkland officials treat each other and work together for the common good of the community. Conducting the City's business in an atmosphere of respect and civility is the underlying theme in this Code. City Officials are responsible for holding themselves and each other accountable for displaying actions and behaviors that consistently model the ideals expressed in the Code.

Implicit in the Code of Conduct is recognition of the worth of individual members and an appreciation for their individual talents, perspectives and contributions. The Code will ensure an atmosphere where individual members, staff and the public are free to express their ideas and work to their full potential.

As a City Official of the City of Kirkland, I agree to these principles of conduct:

**We consistently demonstrate the principles of professionalism, respect and civility in working for the greater good of Kirkland.**

We assure fair and equal treatment of all people.

We conduct ourselves both personally and professionally in a manner that is above reproach.

We refrain from abusive conduct, personal charges or verbal attacks on the character or motives of Council members, commissioners, staff and the public.

We take care to avoid personal comments that could offend others.

We show no tolerance for intimidating behaviors.

We listen courteously and attentively to all public discussions and treat all people the way we wish to be treated.

We serve as a model of leadership and civility to the community.

Our actions inspire public confidence in Kirkland government.

**Keeping in mind the common good as the highest purpose, we will focus on holding efficient meetings that achieve constructive solutions for the public benefit.**

We work as a team to solve problems and render decisions that are based on the merits and substance of the matter.

We respect differences and views of other people.

**We adhere to the principles and laws governing the Council/Manager form of government and treat all staff with respect and cooperation.**

We will refrain from interfering with the administrative functions and professional duties of staff.

We will not publicly criticize individual staff but will privately communicate with the City Manager any concerns about a department or department director or staff person.

We will refrain from negotiating or making commitments without the involvement and knowledge of the City Manager.

We will work with staff in a manner that consistently demonstrates mutual respect.

We will not discuss personnel issues, undermine management direction, or give or imply direction to staff.

We will communicate directly with the City Manager, department directors or designated staff contacts when asking for information, assistance or follow up.

We will not knowingly blindside one another in public and will contact staff prior to a meeting with any questions or issues.

We will not attend City staff meetings unless requested by staff.

### **CHAPTER 3: CITY COUNCIL MEETINGS**

3.01 Rules Governing the Conduct of Meetings. The order of procedure contained in this Chapter shall govern deliberations and meetings of the Council of the City of Kirkland, Washington. *Roberts Rules of Order, Newly Revised*, shall govern the deliberations of the Council except when in conflict with any of the rules set forth in this Chapter.

3.02 Submittal of Council Agenda Items. Items of business to be considered at any Council meeting shall be submitted to the City Manager no later than the Wednesday morning prior to a scheduled Council meeting. A written agenda and informational material is to be prepared and sent the Friday preceding each meeting to each Councilmember. Urgent items arising after the regular agenda has been prepared may be placed on the agenda if the Councilmember or City Manager explains the necessity and receives a majority vote of the Council on a motion to add the item.

3.03 Regular Meetings. Regular meetings of the Council shall be held as provided for by ordinance.

3.04 Quorum. At all meetings of the Council, a majority of the Councilmembers shall constitute a quorum for the transaction of business, but a lesser number may adjourn from time to time to secure the attendance of absent members.

3.05 Order of Business. The order of business shall be as follows:

1. Call to Order
2. Roll Call
3. Study Session
4. Executive Session
5. Honors and Proclamations
6. Communications
  - a. Announcements
  - b. Items from the Audience (See Section 3.07 for the three minute limitation.)
  - c. Petitions
7. Special Presentations
8. Consent Calendar

- a. Approval of Minutes
  - b. Audit of Accounts and Payment of Bills and Payroll
  - c. General Correspondence
    - i. Routine
    - ii. Written correspondence relating to quasi-judicial, including land use public hearing matters and placed in the appropriate hearing file.
  - d. Claims
  - e. Award of Bids
  - f. Acceptance of Public Improvements and Establishing Lien Periods
  - g. Approval of Agreements
  - h. Other Items of Business
9. Public Hearings
  10. Unfinished Business
  11. New Business
  12. Reports
    - a. City Council Reports
      - (1) Finance and Administration Committee
      - (2) Planning and Economic Development Committee
      - (3) Public Safety Committee
      - (4) Public Works, Parks and Human Services Committee
      - (5) Tourism Development Committee
      - (6) Legislative Committee
      - (7) Regional Issues
    - b. City Manager Reports
      - (1) Calendar Update
  13. Items from the Audience
  14. Adjournment

3.06 Consent Calendar. Any matter, which because of its routine nature, would qualify for placement on the Consent Calendar pursuant to section 3.05, may be included on the Consent calendar, notwithstanding action on the matter may, by law or otherwise, require adoption of a resolution or ordinance.

Any item may be removed from the Consent calendar and moved to the regular agenda upon the request of any Councilmember. All items remaining on the Consent calendar shall be approved by a single motion. Whenever an ordinance is included on the Consent calendar, approval of the calendar shall be by roll call vote.

3.07 Public Comment. The Council believes that the following procedure for public comment during regular City Council meetings will best accommodate the desires and concerns of the Council and the public:

1. During the time for "Items from the Audience," speakers may not comment on matters which are scheduled for a public hearing, or quasi-judicial matters. The Council will receive comments on other issues, whether the matter is on the agenda for the same meeting or not. When possible, items on the agenda will be marked with an asterisk when the Council cannot receive comments on such matters during the time for "Items from the Audience."
2. During the times for "Items from the Audience," whether at the beginning or end of the meeting, each speaker will be limited to three minutes. No more than three speakers may address the Council on any one subject. However, if both proponents and opponents wish

to speak, then up to three proponents and up to three opponents of the matter may address the Council. Unless it is 10:00 p.m. or later, speakers may continue to address the Council during an additional Items from the Audience period at the end of the meeting; provided, that the total amount of time allotted for the additional Items from the Audience period shall not exceed 15 minutes. A speaker who addressed the Council during the earlier Items from the Audience period may speak again, and on the same subject, however, speakers who have not yet addressed the Council will be given priority.

3.08 Committee Reports. The chairman of each respective committee, or the Councilmember acting for him/her in his/her place, shall submit or make all reports to the Council when so requested by the presiding officer or any member of the Council.

3.09 Duties of the Presiding Officer. It shall be the duty of the presiding officer of the Council to:

1. Call the meeting to order.
2. Keep the meeting to its order of business.
3. Announce the agenda item and determine if the Council wishes to receive a staff report.
4. If, after presentation of the report or based upon the written report, action is desired, recognize Councilmember to make a motion to propose appropriate action. Require a second to each motion, for those motions which must be seconded.
5. Handle discussion in an orderly way:
  - a. Give every Councilmember who wishes an opportunity to speak.
  - b. Permit audience participation at appropriate times.
  - c. Keep all speakers to the rules and to the question.
  - d. Give pro and con speakers equal opportunity to speak.
  - e. Repeat motions, put motions to a vote and announce the outcome.
  - f. Suggest but not make motions for adjournment.
  - g. Appoint committees when authorized to do so.

3.10 Rules for Councilmember Conduct.

1. No member shall speak more than twice on the same subject without permission of the presiding officer.
2. No person, not a member of the Council, shall be allowed to address the Council while it is in session without the permission of the presiding officer.
3. All questions on order shall be decided by the presiding officer of the Council with the right of appeal to the Council of any member.
4. Motions shall be reduced to writing when required by the presiding officer of the Council or any member of the Council. All resolutions and ordinances shall be in writing.

3.11 Voting. Each member present shall vote on all questions put to the Council. The duty to vote shall be excused when a Councilmember has a financial interest in the question or, in quasi-judicial matters, where a Councilmember has an appearance of fairness problem. When voting on any matter before the Council, a majority of the entire membership of the Council is required for passage of any ordinance, resolution or motion, provided that a simple majority of the members present shall be sufficient with respect to the following motions:

1. To adjourn, to table or continue a matter,
2. To go into or out of executive session,
3. To schedule a special meeting of the City Council,
4. To add or remove items on a future Council meeting agenda,
5. To approve or authorize the sending of a letter or other communication so long as the letter or communication sets forth a policy or position previously agreed to by a majority of the entire Council membership,
6. To establish the date for a public hearing, unless such hearing is required to be set by ordinance or resolution,
7. To authorize call for bids or requests for proposals, and
8. To approve a Consent calendar, provided that any ordinance, any grant or revocation of franchise or license, or any resolution for payment of money included on the Consent calendar, has first been removed.

3.12 Tie Votes. A tie vote, on a matter requiring four affirmative votes for passage, shall not be dispositive of the matter voted upon, but shall be deemed to have tabled the matter until the next succeeding regular meeting at which all seven Councilmembers are present. At that meeting, any member may move to take the matter off the table.

3.13 Non-Tie Vote with Lack of Affirmative Votes. A non-tie vote which fails for a lack of four affirmative votes, as to a matter which requires four affirmative votes for passage, shall be deemed to defeat the matter voted upon. Any Councilmember may move to reconsider the matter at the next succeeding regular meeting at which all seven Councilmembers are present.

3.14 Motions to Reconsider. Except as provided in Sections 3.12 and 3.13, motions to reconsider must be made by a member who votes with the majority, and at the same or next succeeding meeting of the Council.

3.15 Motions to Lay A Matter on the Table. Motions to lay any matter on the table shall be first in order; and on all questions, the last amendment, the most distant day, and the largest sum shall be put first.

3.16 Motion for Adjournment. A motion for adjournment shall always be in order.

3.17 Motions and Discussion by the Presiding Officer. The presiding officer, as a member of the Council may, at his or her discretion, call any member to take the chair, to allow the presiding officer to make a motion, but may otherwise discuss any other matter at issue subject only to such limitations as are imposed by these rules on other Councilmembers.

3.18 Suspension of Rules. The rules of the Council may be altered, amended or temporarily suspended by a vote of two-thirds of the members present; provided, that at least four affirmative votes be cast.

3.19 City Staff Attendance at Meeting. The City Manager, Attorney, City Clerk, and such other officers and/or employees of the City of Kirkland shall, when requested, attend all meetings of the Council and shall remain in the Council chamber for such length of time as the Council may direct.

3.20 Minutes. The City Clerk shall keep correct minutes of all proceedings. The votes of each Councilmember on any ordinance and the ayes and nays on any other question shall be entered in the minutes. Copies of the minutes shall be sent to the members of the Council prior to their next regular meeting.

3.21 Procedure for Considering Process IIA Appeals. The City Council shall consider a Process IIA appeal under Kirkland Zoning Code (KZC) Chapter 150 at one meeting, and shall vote on the appeal at the next or a subsequent meeting, in order for the Council to gather more information from the record and consider the appeal; provided, that the Council, by a vote of at least five members, may suspend this rule and consider and vote on the appeal at the first meeting. The Council's vote (to affirm, modify or reverse the decision of the Hearing Examiner, or direct the Hearing Examiner to hold a rehearing) shall occur within 60 calendar days of the date on which the letter of appeal was filed, pursuant to KZC 150.125.

3.22 Procedure for Considering Process IIB Applications. The City Council shall consider a Process IIB application under KZC Chapter 152 at one meeting, and shall vote on the application at the next or a subsequent meeting; provided, that the Council, by a vote of at least five members, may suspend this rule and consider and vote on the application at the first meeting. The Council shall first consider the application at a meeting held within 45 calendar days of the date of issuance of the Hearing Examiner's recommendations, pursuant to KZC 152.90.

#### **CHAPTER 4: STUDY SESSIONS AND RETREATS**

4.01 Study sessions. Study sessions shall be held as provided by Kirkland Municipal Code 3.10.020. Study sessions are used by the Council to review upcoming agenda items, current and future programs or projects, to discuss, investigate, review or study matters of City business for informational purposes. No final action is taken while in study session; however, the Council may provide direction to staff by consensus or vote. Council direction shall be summarized in writing and presented to the City Council at a regular meeting. Final action on direction provided at a study session will be scheduled for a regular or special council meeting.

4.02 Council retreats. Council retreats are held annually or semi-annually at the Council's discretion. The purpose of the retreats is to allow the Council to devote concentrated attention to single or multiple time consuming subjects. No final action is taken at retreats; however, the Council may provide direction to staff by consensus or vote. Council direction shall be summarized in writing and presented to the City Council at a regular meeting. Final action on direction provided at will be scheduled for a regular or special council meeting.

#### **CHAPTER 5: COUNCIL COMMUNICATIONS**

5.01 Written Correspondence. Access to the City Council by written correspondence is a significant right of all members of the general public, including in particular, residents of the City. The City Council desires to encourage the exercise of this access right by the general public to bring to the attention of the Council, matters of concern to Kirkland residents. In order to do this most effectively, some orderly procedure for the handling of written correspondence is essential. One concern of the City Council is application of the appearance of fairness doctrine to correspondence addressed to the Council, concerning matters which will be coming before the City Council in a quasi-judicial or land use hearing context. Special care in the way the content of those letters is brought to the attention of the individual members of the Council is essential in order that an unintended violation of the appearance of fairness doctrine does not result.

The Council believes that the following procedure for handling of written correspondence addressed to the Council will best accommodate the desires and concerns of the Council as set forth in this section:

1. Correspondence of an Information Only Nature - Correspondence which is purely of an informational nature and which does not require a response or action should not be placed on the Council meeting agenda by the City Clerk, but rather transmitted to the Councilmembers in the normal course of daily business.

2. Routine Requests - Items of a routine nature (minor complaints, routine requests, referrals, etc.) shall be answered by staff. Routine requests and staff responses shall be transmitted to the Councilmembers in the normal course of daily business.

3. Significant Correspondence - Correspondence that requires policy decision or approval by Council shall be placed by the Clerk on the regular Council agenda, either under New Business or if appropriate, under Unfinished Business, and shall be accompanied by staff report as are all other agenda items. Direct replies may be made by the City Manager if policy matters are not involved or the Council has previously provided policy direction. Replies shall be transmitted to the Councilmembers in the normal course of daily business.

4. Correspondence Directly Relating to Quasi-Judicial Hearing Matters - All such correspondence when so identified by the City Clerk shall be listed by name and reference to hearing matter on the Consent agenda under the item Written Correspondence relating to quasi-judicial matters. Copies of such correspondence shall not then be included within the agenda materials, but shall be placed in a City Council communication holding file, or directly into the appropriate hearing file, so that they will be circulated to City Councilmembers at the time that the matter comes before the City Council for its quasi-judicial consideration, and as a part of the hearing record for that matter. The City Clerk shall also advise the sender of each such letter, that the letter will be coming to the attention of the City Council at the time that the subject matter of the letter comes before the Council in ordinary hearing course.

5. Prompt Acknowledgments – The City Manager will promptly acknowledge the receipt of all written correspondence and inquiries and, where appropriate, advise the writer of referral to the City Council or a City department.

5.02 Council Communications with the Public. The Kirkland City Councilmembers are committed to open and progressive communications in their capacity as elected officials. Individual Councilmembers use a variety of methods to communicate with the public, stakeholders, partners and the media. Social media platforms offer a way to deliver public information and customer service to constituents and give citizens another means to interact with their government. The purpose of this policy is to provide guidelines for Council communication with the public, when Councilmembers are acting in their official capacity or commenting on City government matters, through traditional media outlets or the use of social media platforms through personal accounts or pages.

The Council believes that the following guidelines will provide consistency in procedures and allow for use of more tools to communicate with the public.

1. The content and tenor of all public communications should model the same professional behavior displayed during Council meetings and community meetings and reflect well on the individual Councilmember, the City Council as a whole and the community.
2. The following disclaimers should be included in whole or referenced with a link to the disclaimers for all communications initiated by Councilmembers in open forums.

- a. The views expressed represent the views of the author and may not reflect the views of the Kirkland City Council.
  - b. Responses to this communication by other Councilmembers may be limited by the provisions of the Open Public Meetings Act under which a policy discussion must be held in an open public meeting if a quorum of the City Council participates.
  - c. Comments posted in response to a Councilmember-initiated communication may be subject to public disclosure under the Public Records Act.
3. Media outlets such as newspapers, radio and television news coverage may be used as communications medium by individual Councilmembers provided that the communication clearly states that the views expressed do not represent those of the City Council or the City of Kirkland but the views of the individual Councilmember.
  4. Communications Initiated by Councilmembers. Guest editorials, letters to the editor and blog posts published by Councilmembers should be provided to the full City Council at the same time they are delivered to the media outlet. Drafts of guest editorials, letters to the editor or blog posts may not be circulated for comment by a quorum of the Council prior to publication as this may violate the Open Public Meetings Act.
  5. Use of Social Media. Posts to social media sites (Web 2.0) such as blogs, Facebook and Twitter may be used by individual Council members to communicate with the public provided the following guidelines are used:
    - a. Blog posts or other posts to social media sites should include, or reference by a link, the disclaimers listed in Section 2.
    - b. Social media sites are not to be used for the conduct of City Council business other than to informally communicate with the public. Public notices, items of legal or fiscal significance that have not been released to the public and discussion of quasi-judicial matters may not be included in Councilmembers social media posts. Councilmembers are encouraged to maintain social media sites with settings that can restrict users' ability to comment in order to avoid inadvertent discussions of these items. Unsolicited public comments on quasi-judicial matters must be placed on the record by the Councilmember at the time the matter is before the City Council for consideration.
    - c. In order to demonstrate- openness and a willingness to listen to the entire community, Councilmember posts on social media sites should be made through a public-facing page or by marking individual posts as available to the public as a whole.
    - d. When commenting on a post or an article published by someone other than a Councilmember, a link to the standard disclaimers in Section 2 should be included within the thread.
  6. If a Councilmember makes a factual error in a public communication, it should be corrected as soon the error comes to light. Blog posts may be corrected by amending a previous post with a note that a correction was made.

7. Retention of Council Electronic Communications and Social Media Content. All email and text messages, files downloaded from outside sources and other electronic files, relating to the conduct of government or the performance of any governmental or proprietary function, are considered official City business records and are subject to the Washington State Public Records Act and the laws governing the retention and destruction of public records.<sup>1</sup>
  - a. Email messages sent or received via City email addresses are captured by the City archiving system servers. Council communications are potentially archival and will be retained in accordance with the State retention schedule.
  - b. Email messages sent or received using personal addresses should be forwarded to the member's City account, but should also be maintained in their original form to preserve associated metadata. Attachments should be saved to City server drives as appropriate.
  - c. Text message records are maintained by the communications carrier/providers with varying policies and practices, and can be difficult to retrieve and to maintain in accordance with State law. At this time, Councilmembers should only use text messaging for transitory communications and not to discuss City business.
  - d. Social Media postings should be captured via screen shots which are emailed to, and retained in, the Councilmember's City email account as an interim archiving method pending selection of an appropriate social media archiving technology solution.
  - e. Members should consult with the City Clerk's Office for assistance with any retention questions.
8. Use of City-owned equipment to update personal social media sites or email accounts is subject the Administrative Policy 7.1 which allows for incidental use of City equipment for personal needs provided the activity does not the City to additional cost or liability or pose additional risk to security, privacy or conflict with any other City policy. Use of City-owned equipment or email accounts for campaign purposes is prohibited by RCW 42.17A.555.

## **CHAPTER 6: PROCLAMATIONS**

6.01 A proclamation is a formatted certificate, issued by the Mayor, to give recognition and support to ceremonial occasions and special events, or to raise awareness about concerns of interest to the community as a whole. Proclamations are symbolic; no official policy, action or legal act is imparted or intended as a result.

1. All proclamations will be issued at the discretion of the Mayor.
2. Proclamations can recognize international, national, state, and local events, as well as matters of historical interest, in order to bring them to the attention of Kirkland citizens. Proclamation content should relate to a public purpose or benefit.

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<sup>1</sup> "Public record" is broadly defined in RCW 42.56.010(3) to include, ". . . any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. . . "

3. A proclamation that has not previously been issued by the Mayor of Kirkland shall be reviewed by the Mayor and Deputy Mayor for content to ensure that it does not conflict with an adopted policy position of the Kirkland City Council.
4. The City Manager's Office will coordinate all requests for proclamations. Proclamation requests should be received no later than two weeks prior to a City Council Meeting to allow time for the proclamation to be prepared, reviewed, and added to the Council Agenda.
5. Proclamations shall be presented at Council Meetings only if a recipient is present in the audience or at the discretion of the Mayor. All other proclamations will be sent by mail to the recipient.

## **CHAPTER 7: COUNCIL COMMITTEES**

### **CITY COUNCIL COMMITTEE APPOINTMENTS**

#### 7.01 Purpose and Relationship to City Council.

Committees are advisory and do not take action on behalf of the Council. The purpose of Council Committees is to review matters in detail and to make reports to the full Council for possible Council actions. Council Committees may be standing committees or ad hoc committees are appointed for special or time-limited subjects. Ad hoc committees are disbanded when they complete their assigned task.

There are five standing Council Committees:

- Finance and Administration
- Public Safety
- Planning and Economic Development
- Public Works, Parks and Human Services
- Legislative

Committee topics are developed through a collaborative process between the City Council and staff or by referral by the City Council. All topics referred to Council Committees will have final consideration before the full Council after receiving a report from the Council Committee. The chair of each Council Committee is responsible for reporting to the City Council, at a regular meeting, the topics discussed and results of the committee's most recent meeting. Meeting minutes for every Council Committee meeting will be posted to the City Council's internal web page along with a list of current and future topics being discussed by each committee.

#### 7.02 Appointment Process.

Council Committee appointments are generally for a two-year period. Unless a vacancy occurs, Council Committee appointments are made every even-numbered year to coincide with the Council selection of the Mayor. Immediately following the first regular Council meeting in even-numbered years, City Council members should let the Mayor know about their interests in serving on the various City Council and regional committees. The Mayor and Deputy Mayor will then meet to consider committee appointments and they will develop a recommended list of committee appointments. This list of recommended appointments will then be presented at the second City

Council meeting in January for Council’s consideration at which time the committee appointments will be made by the City Council.

If a vacancy should occur during the year, this appointment opportunity should be announced at a Council meeting. Those Council members that are interested in filling this position should let the Mayor know before the next City Council Meeting. The Mayor and Deputy Mayor will make a recommendation for City Council’s consideration to fill this vacancy at that following Council meeting.

7.03 Council Committees

<b>Committee/Topic Areas</b>	<b>Staff</b>
<p><b>Finance and Administration</b></p> <ul style="list-style-type: none"> <li>• Finance and budget</li> <li>• Utility rates</li> <li>• Human Resources and Performance Management</li> <li>• Technology</li> <li>• Public Records</li> <li>• Council Policies and Procedures</li> </ul>	<p><i>Director of Finance and Administration</i></p>
<p><b>Public Safety</b></p> <ul style="list-style-type: none"> <li>• Police</li> <li>• Fire and Emergency Medical Services</li> <li>• Municipal Court</li> <li>• Emergency Management</li> <li>• Code Enforcement</li> </ul>	<p><i>Deputy City Manager</i></p>
<p><b>Legislative</b></p> <ul style="list-style-type: none"> <li>• State and Federal Legislative Agenda and Monitoring</li> <li>• Liaison with State and Federal Elected Officials</li> </ul>	<p><i>Intergovernmental Relations Manager</i></p>
<p><b>Planning and Economic Development</b></p> <ul style="list-style-type: none"> <li>• Business Retention and Recruitment</li> <li>• Business Roundtable</li> <li>• Tourism</li> <li>• Events</li> <li>• Development Services (permitting)</li> <li>• Long Range Planning</li> <li>• Housing</li> </ul>	<p><i>Planning and Community Development Director and Economic Development Manager</i></p>
<p><b>Public Works, Parks and Human Services</b></p> <ul style="list-style-type: none"> <li>• Public Works operations and CIP</li> <li>• Parks Operations and CIP</li> <li>• Parks planning</li> <li>• Environment</li> <li>• Utilities</li> <li>• Facilities and Fleet</li> <li>• Human Services</li> </ul>	<p><i>Public Works Director and Parks and Community Services Director</i></p>

## **CHAPTER 8: BOARD AND COMMISSION APPOINTMENTS**

It shall be the policy of the Kirkland City Council to make appointments to official advisory boards or commissions generally in accordance with the following:

8.01 Applicability/Definition. For the purposes of this policy, the term advisory board shall include the following appointed bodies:

Cultural Arts Commission  
Design Review Board  
Park Board  
Human Services Advisory Committee  
Planning Commission  
Library Board  
Tourism Development Committee (Lodging Tax Advisory Committee)  
Salary Commission  
Transportation Commission

8.02 Eligibility. Relatives, family members or domestic partners of Councilmembers will not be eligible to serve on City advisory boards. Members of the family of a City employee who works in a department, that provides staff assistance or support to an advisory board, shall not be eligible to serve on that board.

8.03 Non-Discrimination. The Council shall not discriminate on the basis of an applicant's race, ethnic background, creed, age\*, sex, marital status, sexual orientation, or sensory or physical handicap in the making of appointments.

\*City council has made age a qualification for specific seats on certain advisory bodies.

8.04 Concurrent Offices. At no time shall any person serve concurrently as a member of more than one of the above listed City Boards.

8.05 Terms. Appointments shall be made for four-year terms, unless otherwise provided by statute or Kirkland Municipal Code. Terms shall expire on the 31<sup>st</sup> of March of the applicable year. A member being appointed to fill a vacant position shall be appointed to fill the vacancy for the remainder of the unexpired term.

8.06 Term Limitations. No individual shall serve more than two full four-year terms as a member of a City of Kirkland appointed advisory board; provided, if an individual is appointed to fill 365 days or less of an unexpired term and serves that term, the individual is eligible to apply for and serve two additional four-year terms. If an individual is appointed to fill 366 days or more of an unexpired term and serves that term, the individual would be eligible to apply for and serve for only one additional four-year term.

8.07 Attendance. Appointees shall attend 80 percent of all meetings in any 12-month period for which there is no prearranged absence, but in any case shall attend no less than 60 percent of all meetings unless waived by the City Council.

8.08 Appointment/Reappointment. An open competitive process will be used to fill vacancies. City Council will initiate an open and competitive application process and solicit applicants for the position(s). All advisory board members completing their term who are interested in and eligible for reappointment will be required to go through the open competitive process.

8.09 Application Process. Openings for advisory board positions shall be widely advertised in local newspapers, as well as other means available and appropriate for this purpose. If an incumbent is eligible to apply for reappointment, this information shall be included in the announcement. Applicants shall be required to complete a City application form provided for this purpose, and to submit a completed application by the specified recruitment deadline. Late applications will not be accepted; however, the City Council may choose to extend an application deadline, if necessary, to obtain a sufficient number of applicants for consideration. Copies of all applications will be provided to the City Council.

8.10 Criteria for Reappointment. Information will be sought from the Board/Committee Chairs and the City Manager (or appropriate staff) when considering reappointments. Reappointments are based on the following criteria:

Minimum performance – attendance, incumbent reads the materials, has a basic understanding of the issues and participates in discussion.

Performance – has well-thought-out arguments, logically presented, and is a good advocate. Shows ability to analyze complex issues and to judge issues on substantive grounds. Understands difference between quasi-judicial and legislative matters.

Personal relations – has good understanding of relative roles of Council, Commissioners and staff and is sensitive to staff's job. Is generally respectful of others' viewpoints. Is a good team player, shows willingness to compromise, work toward a solution, without sacrificing his/her own principles.

Growth/improvement – has shown personal and/or intellectual growth in the position. Has shown improved performance, has taken advantage of continuing education opportunities or other indicia of growth or improvement.

Public benefit – reappointment provides a benefit to the commission as a body; provides or enhances balance on the commission geographically and/or philosophically.

8.11 Appointment Process. Upon receipt of applications, the Council will review the applications and reduce the number of applicants for interview to three applicants for each vacancy. For example, if there were one vacancy on a board or commission, the Council would reduce the pool of applicants to be considered to three. If there were two vacancies, the Council would reduce the pool of applicants to be considered to six. In cases where the number of applicants for interview require a reduction from the number that have applied, an ad hoc committee of the Council will be appointed by lot to review and recommend to the entire Council those to be interviewed for each board or commission and those recommended not to be interviewed.

Interviews of applicants shall be conducted in open session. The chairperson of the respective advisory board (or a representative) will also be invited to attend the interviews, and may participate in the process to the degree desired by the Council. Upon completion of the interviews, the Council shall make its appointments in open session. Following appointment, the appointee, as well as all other candidates, will be notified in writing of the Council's decision.

8.12 Criteria for Removal. Failure to continue to meet the criteria for reappointment to boards and commissions and the attendance standard set forth above is cause for the removal of a member of a board or commission by a majority vote of the Council.

8.13 Open Government Training Requirement. Within 90 days of assuming their positions, all members of boards and commissions appointed by the City Council must receive the training required by the Open Government Trainings Act regarding the Open Public Meetings Act.

## **CHAPTER 7: COUNCIL COMMITTEES**

### **~~CITY COUNCIL COMMITTEE APPOINTMENTS~~**

#### 7.01 Purpose and Relationship to City Council.

Committees are advisory and do not take action on behalf of the Council. The purpose of Council Committees is to review matters in detail and to make reports to the full Council for possible Council actions. Council Committees may be standing committees or ad hoc committees which are appointed for special or time-limited subjects. Ad hoc committees are disbanded when they complete their assigned task.

There are ~~five~~ four standing Council Committees:

- Finance and Administration
- Public Safety
- Planning and Economic Development
- Public Works, Parks and Human Services
- ~~Legislative~~

7.02 Council Committee Topics. Committee topics are developed through a collaborative process between the City Council and staff or by referral by the City Council. Council Committees will be assigned an agenda topic when it supports a policy or budget decision that will come before the City Council. Agenda items may be:

- Identified by the Committee and approved by the City Council;
- Referred by City Council to a committee for monitoring or input, or;
- Referred by the City Manager for early input prior to presentation to the City Council.

Topics may be added at any time by the City Manager. New topics requested by a Councilmember that involves more than four hours of staff time should be reviewed by the City Manager for staff impacts. All topics referred to Council Committees will have final consideration before the full Council after receiving a report from the Council Committee regarding all policy options presented. The chair of each Council Committee is responsible for reporting to the City Council, at a regular meeting, the topics discussed and results of the committee's most recent meeting. Meeting minutes for every Council Committee meeting will be posted to the City's webpage and the Council's internal web page along with a list of current and future topics being discussed by each committee. The topic lists will also indicate when and by whom they the topics were initiated. Pending agenda topics for Council Committees will be reviewed periodically by the full Council.

#### 7.03 Council Committee Meetings

The regular time and location of standing Council Committee meetings will be posted on the City's website and the meetings are open to the public.

<u>Finance and Administration</u>	<u>Monthly, last Tuesday, 9 a.m.</u>
<u>Legislative</u>	<u>Every Friday, 3:30 p.m.</u>
<u>Planning, Housing and Economic Development</u>	<u>Monthly, 2<sup>nd</sup> Monday, 3 p.m.</u>
<u>Public Works, Parks and Human Services</u>	<u>Monthly, 1<sup>st</sup> Wednesday, 10 a.m.</u>
<u>Public Safety</u>	<u>Monthly 3<sup>rd</sup> Thursday, 8:30 a.m.</u>

Members of public may attend Council Committee meetings, but may not provide testimony or participate in the meeting discussion. Unless a quorum of the Council is in attendance, Ad hoc meetings of Council Committees, such as tours or unplanned meetings with other elected officials, do not need to be posted the City's website provided that a quorum of the Council is in attendance.

7.032 Council Committee ~~Appointments Process~~.

Council Committee appointments are generally for a two-year period. Unless a vacancy occurs, Council Committee appointments are made every even-numbered year to coincide with the Council selection of the Mayor. Immediately following the first regular Council meeting in even-numbered years, City Council members should let the Mayor know about their interests in serving on the various City Council and regional committees. The Mayor and Deputy Mayor will then meet to consider committee appointments and they will develop a recommended list of committee appointments. This list of recommended appointments will then be presented at the second City Council meeting in January for Council's consideration at which time the committee appointments will be made by the City Council.

If a vacancy should occur during the year, this appointment opportunity should be announced at a Council meeting. Those Council members ~~that are~~ interested in filling this position should let the Mayor know before the next City Council Meeting. The Mayor and Deputy Mayor will make a recommendation for City Council's consideration to fill this vacancy at that following Council meeting.

7.043 Council Standing Committees

<b>Committee/Topic Areas</b>	<b>Staff</b>
<b>Finance and Administration</b> <ul style="list-style-type: none"> <li>• Finance and budget</li> <li>• Utility rates</li> <li>• Human Resources and Performance Management</li> <li>• Technology</li> <li>• Public Records</li> <li>• Council Policies and Procedures</li> </ul>	<i><u>Deputy City Manager and Director of Finance and Administration</u></i>
<b>Public Safety</b> <ul style="list-style-type: none"> <li>• Police</li> </ul>	<i><u>Deputy City Manager</u></i>

<ul style="list-style-type: none"> <li>• Fire and Emergency Medical Services</li> <li>• Municipal Court</li> <li>• Emergency Management</li> <li>• Code Enforcement</li> </ul>	
<p><b>Legislative</b></p> <ul style="list-style-type: none"> <li>• <del>State and Federal Legislative Agenda and Monitoring</del></li> <li>• <del>Liaison with State and Federal Elected Officials</del></li> </ul>	<p><i>Intergovernmental Relations Manager</i></p>
<p><b>Planning and Economic Development</b></p> <ul style="list-style-type: none"> <li>• Business Retention and Recruitment</li> <li>• Business Roundtable</li> <li>• Tourism</li> <li>• Events</li> <li>• Development Services (permitting)</li> <li>• Long Range Planning</li> <li>• Housing</li> </ul>	<p><i>Planning and Community Development Director and Economic Development Manager</i></p>
<p><b>Public Works, Parks and Human Services</b></p> <ul style="list-style-type: none"> <li>• Public Works operations and CIP</li> <li>• Parks Operations and CIP</li> <li>• Parks planning</li> <li>• Environment</li> <li>• Utilities</li> <li>• Facilities and Fleet</li> <li>• Human Services</li> </ul>	<p><i>Public Works Director and Parks and Community Services Director</i></p>



## **MEMORANDUM**

**To:** Kurt Triplett, City Manager  
**From:** Marilynne Beard, Deputy City Manager  
**Date:** May 24, 2015  
**Subject:** PUBLIC SAFETY COMMITTEE OUTSTANDING AGENDA TOPICS

### **RECOMMENDATION:**

City Council reviews and provides feedback on the revised list of outstanding agenda topics for the Public Safety Committee for adoption at a future regular meeting.

### **BACKGROUND DISCUSSION:**

At the May 22, 2015 Public Safety Committee meeting, the Committee reviewed their list of outstanding agenda items to determine whether there were changes needed. The Committee used the following policy basis as a guide:

*Council Committees will be assigned an agenda topic when it supports a policy or budget decision that will come before the City Council. Agenda items may be:*

- *Identified by the Committee and approved by the City Council;*
- *Referred by City Council to a committee for monitoring or input, or;*
- *Referred by staff for early input prior to presentation to the City Council.*

The Public Safety Committee suggested two additional concepts for agenda topics. The first was to make is clear *that Committees do not have final decision making authority over any topic and cannot keep a topic from moving to the full Council by inaction or remove topics without approval from the full Council.* The Public Safety Committee recommends that the Council adopt a formal policy to review at least biennially topics for all Committees to determine which agenda topics should continue to remain on Committee lists. The Public Safety Committee also suggested that Committees ask themselves "*what product will this agenda item deliver from the Committee to the full Council to aid in policy or budget decisions*" for each agenda topic.

During their review, the Committee deleted some items, provided further clarification or designated an item to be included on a new Public Safety Dashboard that would be updated at regular intervals and available to the Committee on CouncilNet. The Dashboard is designed to be patterned after the Finance and Administration dashboard and would consolidate some of the topics previously designated as annual or quarterly reports. Staff will develop draft dashboard for the Committee's review at a future meeting.

A strike and edit version of the Committee's outstanding agenda topics (based on the March 2015 list) is attached (Attachment A). The Committee's proposed revised list is included as Attachment B.

**Council Committee Outstanding Agenda Topics**  
**Public Safety Committee**  
**Updated May 22, 2015**

Moved to Dashboard

ATTACHMENT A

Deleted

Added

	Type of Item	Requested By	Original Date Requested	Comments
Fire Strategic Plan <b>Implementation and Tracking Update</b>	Periodic Updates	City Council	Summer 2011	
Prevention Based Efforts in Public Safety	Staff Report	Committee	January 2013	Provide report on current efforts and opportunities
Public Safety Volunteer Programs (esp. at Station 24)	Staff Report	Committee	January 2013	Do presentation for Council about the role of Fire Corps
Long Term Cost of Education Incentives	Staff Report	Committee	January 2013	
Residential Fire Sprinkler Process	Staff Report	City Council	2008	Bring back to Committee and then to full Council with recommendation
<b>Crisis Intervention Training and Diversion</b>	Staff Report	Committee	January 2013	Move to dashboard -- number of officers trained in crisis intervention and diversion
Police Dispatch and Response Time (Pre and Post Norcom)	Staff Report	Committee	January 2013	
<b>DUI, Public Drunkenness and Over Service</b>	Annual Report	Committee	2011	Move to dashboard -- number and originating location of DUI's
Public Safety Performance Measures	Staff Report	Committee	January 2013	
<b>Quarterly Fire/EMS Response Data</b>	Quarterly Report	Staff	Since Inception of Comm.	Move to dashboard
Public Safety Building Updates	Ongoing	City Council	2011	This can be sunsetted at some point
<b>Downtown Activity/Transit Center</b>	Annual Report	Committee	2011	Move to dashboard -- number of incidents/calls for service in downtown/transit center

	Type of Item	Requested By	Original Date Requested	Comments
Crime Statistics Report	Annual Report	Committee	January 2013	Add to dashboard
Response to Group Homes and Assisted-Living Facilities	Annual Report	Committee	April 2014	
False Alarm Prevention Update	Annual Report	Staff	2008	Add to dashboard
North Fire Station Siting	Periodic Updates	Staff	2011	
Police Body Cams	Staff Report	Committee	2014	Refer to legislative committee to track
King County CMT Program Report and City of Kirkland Options	Staff Report	Committee	February 2015	
Reverse 911 System and Customer Data in 911 System	Staff Report	Committee	January 2014	Report on Smart 911 to full Council
Regulation of Marijuana Lab Operations	Staff Report	Committee	February 2014	
School Zone cameras	Staff Report	Committee	March 2015	Update report and bring recommendation back to Council (included in Police Strategic Plan Scope)
Police handling of cultural and language differences	Staff Report	Committee	March 2015	Prepare report to Committee
Continuity of government plan and COOP	Staff Report	Committee	March 2015	Report to Committee about how to complete these plans
Policy on drones	Staff Report	Committee	March 2015	Report to committee about how the City could use drones (included in Police Strategic Plan Scope)
City and citizen responsibility for fire-hydrant maintenance	Staff Report	Committee	March 2015	This is education issue -- Maybe do a City Update article and check with Public Works and Northshore Utility to see what they do
Marine unit/fire rescue boat	Staff Report	Committee	March 2015	This will be a CIP project
Road barrier removal	Staff Report	Committee	March 2015	This will be a CIP project

	Type of Item	Requested By	Original Date Requested	Comments
Animal control	Staff Report	Committee	March 2015	This will come to Committee and Council prior to end of current contract with King County
Regional Fire Authority feasibility	Staff Report <del>Periodic</del> Update	Committee	March 2016	

**Council Committee Outstanding Agenda Topics**  
**Public Safety Committee**  
**Updated May 22, 2015**

ATTACHMENT B

	Type of Item	Requested By	Original Date Requested	Comments
Fire Strategic Plan Implementation and Tracking	Periodic Updates	City Council	Summer 2011	
Prevention Based Efforts in Public Safety	Staff Report	Committee	January 2013	Provide report on current efforts and opportunities
Residential Fire Sprinkler Process	Staff Report	City Council	2008	Bring back to Committee and then to full Council with recommendation
Public Safety Performance Measures	Staff Report	Committee	January 2013	
North Fire Station Siting	Periodic Updates	Staff	2011	
King County CMT Program Report and City of Kirkland Options	Staff Report	Committee	February 2015	
School Zone cameras	Staff Report	Committee	March 2015	Update report and bring recommendation back to Council (included in Police Strategic Plan scope)
Police handling of cultural and language differences	Staff Report	Committee	March 2015	Prepare report to Committee
Continuity of government plan and COOP	Staff Report	Committee	March 2015	Report to Committee about how to complete these plans
Policy on drones	Staff Report	Committee	March 2015	Report to committee about how the City could use drones (included in Police Strategic Plan Scope)
Regional Fire Authority feasibility	Periodic Update	Committee	March 2015	
Prepare Dashboard of Key Indicators	Periodic Report	Committee	May 2015	

# A CITIZEN PETITION TO ESTABLISH A MINIMUM WAGE ORDINANCE FOR THE CITY OF TACOMA

Petitions with Signatures must be returned by  
**May 20, 2015**  
 General Election Day  
**November 3, 2015**

Please return Petition forms with Signatures as soon as they are completed.  
 Mail signatures to:  
**15 Now Tacoma**  
**4633 N. Lexington St.**  
**Tacoma, WA 98407**

To request additional Petition forms or to schedule a volunteer to pick up signatures call **253-973-8153**.

Feel free to copy and distribute this petition. The law requires that the petitions be reproduced exactly like this, two-sided (with legal language on the back) and this size – 11x17.  
 For more information visit our website at [www.15NowTacoma.info](http://www.15NowTacoma.info)

Signature Gatherer \_\_\_\_\_  
 Address \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
 Telephone \_\_\_\_\_ Email \_\_\_\_\_

**FOR SUBMISSION TO THE TACOMA CITY COUNCIL, TACOMA WASHINGTON**

To Doris Sorum, City Clerk, City of Tacoma:  
 We, the undersigned citizens and legal voters of Tacoma, Washington, respectfully direct that the proposed measure know as Initiative Measure No. 1, entitled:

**(insert official Ballot title)**

a full true and correct copy of which is printed on the reverse side of this petition, be transmitted to the City Council of the City of Tacoma, and we respectfully petition the City Council to enact said proposed measure into law; and each of us for himself or herself says: I have personally signed this petition; I am a legal voter of the State of Washington in the city written after my name, my residence address is correctly stated, and I have knowingly signed this petition only once.

**SUMMARY**

This measure proposes an ordinance to establish a minimum wage in the City of Tacoma of fifteen dollars per hour, to be adjusted for inflation annually. The ordinance exempts those businesses that the City Tax Code defines as small businesses (currently, those with a gross income of less than \$300,000) from Tacoma’s minimum wage law. The ordinance authorizes the city to investigate complaints and enforce compliance. The law establishes a Citizen’s Minimum Wage Commission, which reviews the City’s enforcement performance annually and verifies the adequacy of the Minimum Wage every 5 years. The City may restrict repeat violators from city contracts, land use appraisals, entitlements to expand, or to operate within the city based on a history of noncompliance.

**Warning**

Every person who signs this petition with any other than his or her true name, or who knowingly signs more than one of these petitions, or signs a petition seeking an election when he or she is not a legal voter, or signs a petition when he or she is otherwise not qualified to sign, or who makes herein any false statement, shall be guilty of a misdemeanor.  
 By signing this petition, your information written below is subject to public disclosure.

**City of Tacoma Voters please sign below for this Tacoma Initiative petition.**

PLEASE DO NOT CUT – INVALIDATES SIGNATURES    PLEASE DO NOT CUT – INVALIDATES SIGNATURES    PLEASE DO NOT CUT – INVALIDATES SIGNATURES    PLEASE DO NOT CUT – INVALIDATES SIGNATURES

Signature <small>(as registered)</small>	Print name here <small>(for identification purposes)</small>	Address <small>(or where registered to vote – No PO Boxes)</small>	City Zip Code	Date	Contact Information
1.					
2.					
3.					
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I Declaration of Necessity.

WHEREAS the costs of housing, food, medical care and other basic necessities in the city of Tacoma are now beyond the means of many low-wage workers to pay them and; WHEREAS the stated mission of the City of Tacoma is to "enhance the lives of its citizens"; and the stated vision of the City of Tacoma is to "be recognized as a livable and progressive international city"; and the key to livability is a livable wage; and the mark of a progressive city is to strive to improve the welfare of its citizens and;

II TITLE: This ordinance shall be known as the "TACOMA MINIMUM WAGE ORDINANCE."

III Definitions as used in this initiative.

- (1) "Director" means the Director of the Finance Department of the City or any officer, agent or employee of the City designated to act on the Director's behalf.
(2) "Employee" includes any individual, partnership, association, corporation, business trust or any person or group of persons acting directly or indirectly in the interest of an employer to control the activities and compensation of an employee, but does not include:
(a) Any business receiving an exemption under the City of Tacoma Tax Code, 6A.30.080, Exemptions, paragraph V or a credit under 6A.30.066, Small business phased tax credit.
(b) Any business located outside the City of Tacoma if gross income as defined in 6A.30.066 remains below the highest dollar amount allowed under 6A.30.066.
(3) "Employ" means to direct the activities of and compensate an employee for work performed for an employer.
(4) "Employee" includes any individual, employed by an employer who, in a given week, performs at least two hours of work within the city limits of Tacoma or maintains or reports to an office within the city limits of Tacoma or performs work supervised from an office within the city limits of Tacoma but shall not include:
(a) Any individual employed in casual labor in or about a private home, unless performed in the course of the employer's trade, business or profession;
(b) Any individual engaged in the activities of an educational, charitable, religious, state or local governmental body or agency or nonprofit organization where the employer-employee relationship does not in fact exist or where the services are offered freely by an employee without coercion by the employer and are not a condition of employment. If the individual receives reimbursement in lieu of compensation for normally incurred out-of-pocket expenses or receives a nominal amount of compensation per unit of voluntary service rendered, an employer-employee relationship is deemed not to exist for the purpose of this ordinance.
(5) "Ordinance" means the "Tacoma Minimum Wage Ordinance."
(6) "Wage" means compensation due to an employee by reason of employment, payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to such deductions, charges or allowances as may be permitted by law. Gratuities received by employees shall not be considered part of the minimum wage.
(7) "Department" refers to the Finance Department of the City of Tacoma.

IV Minimum Hourly Wage – Adjusted minimum wage based on inflation.

- (1) Beginning on the earliest date allowed by law following the certification of this ordinance, every employer shall pay to each of his or her employee's wages at a rate of not less than fifteen dollars (\$15.00) per hour.
(2) On September 30, 2016 and on each following September 30th, the Director shall calculate an adjusted minimum wage rate to maintain employee purchasing power by increasing the current year's minimum wage rate by the rate of inflation. The consumer price index for urban wage earners and clerical workers, CPI-U, for the twelve months prior to each September 1st is calculated by the United States Department of Labor. The adjusted minimum wage rate for Tacoma shall be calculated to the nearest cent using the unchained CPI-U for urban wage earners and clerical workers for the Seattle-Tacoma-Bremerton CMSA. If a successor index must be chosen, the most relevant local index will be selected. Each adjusted minimum wage rate calculated under this ordinance takes effect on the following January 1st. If the inflation index is a negative number there will be no change in the minimum wage rate.

V Police Powers granted. – Authority and responsibility to administer, monitor, enforce. – Duty to provide periodic reports.

- (1) This ordinance establishes a minimum wage for workers in Tacoma and enables the City of Tacoma and the Director of the Finance Department of the City to exercise police powers to enforce that minimum wage.
(2) The Director shall have the authority and responsibility to administer, monitor and enforce compliance with minimum wage requirements under this ordinance.
(3) Beginning March 31, 2016 and on March 31 of each subsequent year, the Director shall publish an annual report addressed to the Council, the Citizens of Tacoma, and the Minimum Wage Review Commission providing a statistically valid assessment of compliance with this ordinance and detailing related enforcement activity.

VI Rulemaking Authority – Finance Director.

The Director shall have the power to make rules pursuant to 6A.10.160, Director to make rules, provided that such rules or regulations do not allow any employer to pay a wage less than the Tacoma minimum wage to any employee unless exempted by the definition of an employee or employer in this ordinance.

VII Minimum Wage Review Commission

- (1) Beginning in April of 2016 and each subsequent April an independent citizen commission shall be formed and named the Tacoma Minimum Wage Review Commission. The commission will consist of seven members, five of whom are to be selected by lot by the County Auditor from eligible City of Tacoma voters in each of the City's Council districts. One member from City of Tacoma residents with labor issues management experience is to be appointed by the Mayor and confirmed by the City Council and one member with labor issues resolution experience is to be selected by the Pierce County Central Labor Council after being nominated from City of Tacoma residents by member unions. All members must show proof of residency in the City of Tacoma upon appointment and maintain such residency for the duration of their service on the Commission.
(2) Every year, the Commission will review the Director's Report and certify that adequate resources are being allocated to administration and enforcement of the ordinance. If the Commission finds that funding and/or staffing is inadequate, the Commission is authorized to direct the City Council to rectify the situation.
(3) Every five years, the Commission will review the minimum wage and assess whether the base minimum wage needs to be increased beyond scheduled cost-of-living increases. The Commission will present its findings and recommendations to the City Council for action.

VIII Notification of employers.

- (1) By November 1 of each year, the Department shall publish and make available to Employers a bulletin announcing the adjusted minimum wage rate for the upcoming year, which shall take effect on January 1. In conjunction with this bulletin, the Department shall by November 1 of each year publish and make available to employers, in all languages spoken by more than five percent of the work force in the City, a notice suitable for posting by employers in the workplace informing employees of the current minimum wage rate and of their rights under this ordinance.
(2) Every employer shall post in a conspicuous place at any workplace or job site where any employee works the notice published each year by the Department informing employees of the current minimum wage rate and of their rights under this ordinance. Every employer shall post such notices in any language spoken by at least five percent of the employees at the work-place or job site. Every employer shall also provide each employee at the time of hire with the employer's name, address and telephone number in writing.

IX Investigation—Services of federal and state agencies -- Employer's records -- Industrial homework.

- (1) The Director or his or her designated representatives may investigate and gather data regarding the wages, hours and other conditions and practices of employment of any employer subject to this ordinance and may enter and inspect such places and such records and make such transcriptions thereof, question such employees and investigate such facts, conditions, practices or matters as he or she may deem necessary or appropriate to

determine whether any person has violated any provision of this ordinance or which may aid in the enforcement of the provisions of this ordinance.

- (2) With the consent and cooperation of federal and/or state agencies charged with the administration of federal and state labor laws, the Director may, for the purpose of carrying out his or her functions and duties under this ordinance, utilize the services of federal and state agencies and their employees and, notwithstanding any other provision of law, may reimburse such federal and state agencies and their employees for services rendered for such purposes.
(3) Every employer subject to any provision of this ordinance or of any order issued under this ordinance shall make, keep and preserve such records of the persons employed by him or her and shall preserve such records for a period of at least ten years.
(a) These records shall contain at a minimum, each employee's name, address, rate of pay, the amount paid each pay period, hours worked each day, each work week and such other information as the Director shall prescribe by regulation.
(b) Such records shall be open for inspection or transcription by the Director or his or her authorized representative at any reasonable time and such reasonable time shall be within 15 days of the Director's request for disclosure.
(c) The employer shall make reports therefrom to the Director as he or she shall prescribe by regulation.
(d) The employer shall furnish to the Director or to his or her authorized representative on demand a sworn statement attesting to the accuracy and completeness of such records and information upon forms prescribed or approved by the Director.
(4) The Director is authorized to make such regulations regulating, restricting or prohibiting industrial homework as are necessary or appropriate to prevent the circumvention or evasion of and to safeguard the minimum wage rate prescribed in this ordinance.

X Claims against employer—Assignment of wage claim-reporting violations.

- (1) An employee of an employer as defined in this ordinance or anyone advocating in the employee's interest may file a complaint. This involves providing information showing work hours and rates of pay. The Director and any designee of the Director employed by the Department may initiate an investigation even when no complaint has been filed. All claims must be investigated by the Finance Department or if appropriate, forwarded to the Washington State Department of Labor & Industries for investigation. In order to protect claimants from retaliation the Department shall maintain the claimant's anonymity unless and until disclosure is required by law. Claimants shall be notified of the status of their claim within 30 calendar days and further updates provided upon request until the claim is resolved by the Director. In addition to filing a complaint with the department, a worker may have other remedies under the law.
(2) Any employer who pays any employee less than wages to which such employee is entitled under or by virtue of this ordinance, shall be liable to such employee affected for the full amount of such wage rate, less any amount actually paid to such employee by the employer and for costs and such reasonable attorney's fees as may be allowed by the court. Any agreement between such employee and the employer to work for less than such wage rate shall be no defense to such action.
(3) Upon obtaining information indicating an employer may be committing a violation under this ordinance and when, in the judgment of the Director, the claims are valid and enforceable in the courts, the Director shall:
(a) Order the payment of all wages owed the workers and institute actions necessary for the collection of the sums determined owed; and
(b) Report, with evidentiary documentation, to the City Attorney to support criminal prosecution.
(c) For persons who are financially unable to employ counsel the Director may take assignments of wage claims and prosecute actions for the collection of wages.

XI Prohibited acts of employer—Penalty.

- (1) Any employer who pays or agrees to pay wages at a rate less than the rate applicable under this ordinance shall, upon conviction therefore, be guilty of:
(a) Theft under RCW 9A.56.050—Theft in the third degree if the unpaid wages of all affected employees does not exceed seven hundred and fifty dollars; or
(b) Theft under RCW 9A.56.040—Theft in the second degree if the unpaid wages of all affected employees exceeds seven hundred fifty dollars but does not exceed five thousand dollars; or
(c) Theft under RCW 9A.56.030—Theft in the first degree if the unpaid wages of all affected employees exceeds five thousand dollars.
(2) If any of the penalties in subsection (1), immediately above, are disallowed by the courts, the employer shall pay a civil penalty of \$100.00 per day per employee for the first violation or \$500.00 per day per employee for the second violation or \$1,000.00 per day per employee for subsequent violations. All penalty monies collected are to be evenly divided between the affected employees and the Department to defray the cost of enforcement. Further, the violator shall be subject to such further penalties as set forth herein. The civil penalty may be assessed and collected by use of all appropriate legal remedies.
(3) If the penalties cited in subsection (1) and (2) immediately above are disallowed by the courts the employer shall be subject to the maximum penalty allowed by law.
(4) Any employer who obstructs, hinders or delays the director or his or her authorized representatives in the performance of his or her duties in the enforcement of this ordinance or refuses to admit the director or his or her authorized representatives to any place of employment or fails to make, keep and preserve any records as required under the provisions of this ordinance or falsifies any such record or refuses to make any record accessible to the director or his or her authorized representatives upon demand or refuses to furnish a sworn statement of such record or any other information required for the proper enforcement of this ordinance to the director or his or her authorized representatives upon demand or otherwise violates any provision of this ordinance or of any regulation issued under this ordinance shall be deemed in violation of this ordinance and shall, upon conviction therefore, except as defined otherwise above, be guilty of a gross misdemeanor.
(5) It shall be unlawful for an employer or any other party to discriminate in any manner or take adverse action against any person in retaliation for exercising rights protected under this ordinance. Rights protected under this ordinance include, but are not limited to: the right to file a complaint or inform any person about any party's alleged noncompliance with this ordinance, the right to inform any person of his or her potential rights under this ordinance and to assist him or her in asserting such rights. Protections of this ordinance shall apply to any person who mistakenly, but in good faith, alleges noncompliance with this ordinance. Any employer who discharges or in any other manner discriminates or retaliates against any employee because such employee has made any complaint to his or her employer or because such employee has caused to be instituted or is about to cause to be instituted any proceeding under or related to this ordinance or because such employee has testified or is about to testify in any such proceeding shall be deemed in violation of this ordinance and shall, upon conviction therefore, be guilty of a gross misdemeanor. Taking adverse action against a person within ninety (90) days of the person's exercise of rights protected under this ordinance shall raise a rebuttable presumption of having done so in retaliation for the exercise of such rights.

XII City Authorized to Consider Compliance.

City officials are hereby authorized to consider, to the maximum extent permitted by law, an employer's record of noncompliance with this ordinance in making decisions on City contracts, land use approvals and other entitlements to expand or operate within the City. The City is authorized to either deny approval or include conditions for approval ensuring future compliance by investigating complaints of noncompliance with this ordinance and rendering City decisions on the merits of such complaints. The City is authorized to award the same relief in its proceedings as a court may award. Pursuit of such administrative remedy shall not be a prerequisite for pursuing a private action under this Ordinance.

XIII Ordinance establishes minimum standards and is supplementary to other laws—More favorable standards unaffected.

This ordinance establishes a minimum standard for wages and working conditions of all employees in this city unless exempted herein and is in addition to and supplementary to any other federal or state law or ordinance or any rule or regulation issued under such law or ordinance, provided such law, ordinance, rule or regulation does not allow any employer to pay a wage less than the Tacoma minimum wage to any employee not explicitly exempted by the definition of an employee or employer in this ordinance. Any standards relating to wages, hours or other working conditions established by any applicable federal or state law or ordinance or any rule or regulation issued hereunder which are more favorable to employees than the minimum standards applicable under this ordinance or any rule or regulation issued hereunder, shall not be affected by this ordinance and such other laws, rules or regulations shall be in full force and effect and may be enforced as provided by law.

XIV Severability.

If any provision of this ordinance or the application thereof to any person or circumstances, is held invalid, the remainder of the ordinance and the application thereof to other persons or circumstances shall not be affected thereby.

## Arguments for and against

The use of initiative is direct democracy at its most fundamental level. It is favored by those who value widespread voter participation both in choosing candidates and in drafting and deciding upon legislation. It is an attempt to enlarge the role of the electorate while at the same time diminishing the power of the elected representatives, in this case the city or charter county councilmembers.

The classic arguments for initiative powers have changed little since the initiative and referendum process was introduced in its present form in this country in the early twentieth century. Proponents argued that the initiative process would neutralize special interest groups, curtail corruption, provide a vehicle for civic education, and put pressure on public officials to act in the public interest. Supporters claimed that the initiative process was the culmination of the steady advance of the broadened franchise and direct democracy in this century.

Those opposed to the use of initiative power are basically supporters of representative democracy. They stress the need for

knowledge and deliberation in the drafting of legislation and the daily business of governing. While those favoring this position are often accused of being undemocratic and lacking faith in the people, they assert that the most important democratic act is the selection of representatives.

Critics of the initiative process argue that it is a dangerous device that undercuts representative government by taking law-making out of the hands of the legislators elected to do the job. Complex issues are reduced to fast “yes” or “no” decisions by voters who may be swayed by misleading television or other commercials paid for by special interest groups. Initiatives may be crudely drafted and no allowance made for the usual give and take of the legislative process, which often results in the kind of compromises that make laws more workable.

Both sides agree that most of the business of governing cannot be decided directly by the people but must be decided by elected representatives. Therefore, the power of initiative is always recognized as a supplement to the normal legislative process.

The same basic philosophical arguments apply to the power of referendum as apply to the initiative power.