

February 01, 2021  
6:00 pm – 8:00 pm  
City Council Meeting  
Zoom Remote Participation Session  
Oakridge, OR 97463



#### WORKING SESSION

1. CALL MEETING TO ORDER
2. Roll Call
3. Additions, Corrections or Adjustments to the Agenda
4. Annual Review of Council Rules of Procedure
5. Discussion of Draft Social Media Policy
6. Adjourn

**This will be a remote participation meeting.**

1. Use your computer, tablet or smartphone and go to: <https://zoom.us/j/3664311610>.
2. Use your telephone and dial: +1 346 248 7799. Meeting ID: 366 431 1610.

**There are available computers at the OIP Offices and City Hall for council members needing a better connection. Please contact the city administrator to reserve.**

**Citizens may join on Zoom but there will be no public comment.**

**Accommodation for Physical Impairments:** *In order to accommodate persons with physical impairments, please notify the City of any special physical or language accommodations you may require as far in advance of the meeting as possible. To make arrangements, Contact City Hall at 541-782-2258. For the hearing impaired, the City's TTD Number is 541-782-4232.*

**Business of the City Council**

City of Oakridge, Oregon

**February 1, 2021**

**Agenda Title: City of Oakridge Social  
Media Policy**

**Agenda Item No: 4.0**

**Exhibits: (1) Council Rules of Procedure (highlighted)**

**Proposed Council Action: Review of  
Document**

**Agenda Bill Author: Bryan Cutchen**

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**ISSUE:** Council requested to review the current Rules of Procedure adopted on 3/24/2020. Councilor Kinyon has provided a copy with discussion points highlighted. This will serve as a starting point.

**FISCAL IMPACT:** None.

**OPTIONS:**

**RECOMMENDATION:**

**RECOMMENDED MOTION:** N/A

# Council Rules of Procedures



MARCH 2020

**Rules of Procedure**  
**City Council of Oakridge, Oregon**  
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## CHAPTER 1 – General Governance

### I. Rules of Procedure.

- A. Unless otherwise provided by charter, ordinance or these rules, the procedure for council meetings, and any subcommittee of the city council, shall be governed by Robert’s Rules of Order Newly Revised.<sup>1</sup>
- B. Members of the council are encouraged to avoid invoking the finer points of parliamentary procedure found within Robert’s Rules of Order when such points will obscure the issues before the council and confuse members of the public.
- C. Whenever these rules and Robert’s Rules of Order conflict, these rules shall govern.

### II. Quorum. A quorum is required to conduct official city business.

- A. The members of the council are the six (6) city councilors and mayor.<sup>2</sup> Four members of the council shall constitute a quorum. Vacancies in office do not count towards determining a quorum.
- B. In the event a quorum is not present, the members of the council who are present may:
  - 1. Adjourn the meeting.
  - 2. In accordance with Section 14 of the city charter and an ordinance adopted thereunder, compel the attendance of absent members.<sup>3</sup> No official action, other than compelling the attendance of absent members, may occur until a quorum has been established.

### III. Presiding Officer.

- A. The mayor shall be chairperson of the council and preside over its deliberations. The mayor shall have authority to:
  - 1. Preserve order;
  - 2. Enforce these Rules of Procedure; and
  - 3. Determine the order of business under these Rules of Procedure.<sup>4</sup>

<sup>1</sup> Oakridge Municipal Code §30.06.

<sup>2</sup> Oakridge City Charter, Section 7.

<sup>3</sup> Oakridge City Charter, Section 14.

<sup>4</sup> Oakridge City Charter, Section 16.

- B. In the mayor's absence the president of the council shall preside over the meeting. The president of the council shall retain all rights and privileges of the office of the mayor as set out in the city charter when acting in this capacity.<sup>5</sup>
- C. If both the mayor and the president of the council are absent from the meeting, the most senior, in continuous service, council member shall open the meeting, accept nominations for a temporary presiding officer and conduct a vote. The member elected as temporary presiding officer shall thereafter preside at that meeting until the arrival of the mayor or council president.

#### IV. Appointed Officers.

- A. **City Recorder.** The city recorder shall serve ex officio as clerk of the council. In this role, the city recorder is responsible for the following:
1. The city recorder shall keep the official minutes of the council;
  2. Sign orders on the treasury.<sup>6</sup>
- B. **City Administrator.** The city administrator is required to attend all meetings of the council unless excused by the council or the mayor.<sup>7</sup>
1. The administrator may sit with the council but may not vote on questions before it.<sup>8</sup>
  2. The administrator may take part in all council discussions.<sup>9</sup>
  3. The administrator shall be the parliamentarian and shall advise the presiding officer on any questions of order. The administrator has the authority to delegate the duties of parliamentarian to any city staff person.
- C. **City Attorney.** The city attorney may attend any meeting of the council, upon request, give an opinion, either written or oral, on legal questions.
- D. **Municipal Judge.** If the council, pursuant to Section 20 of the Oakridge Charter, creates the office of municipal judge, the council shall appoint a municipal judge.
1. The council may authorize the municipal judge to appoint municipal judges pro tem for terms of office set by the judge or the council.<sup>10</sup>
    - a. Individual appointments shall be approved by council.<sup>11</sup>

<sup>5</sup> Oakridge City Charter, Section 17.

<sup>6</sup> Oakridge City Charter, Section 22.

<sup>7</sup> Oakridge City Charter, Section 21.(6)(a).

<sup>8</sup> Oakridge City Charter, Section 21.(8).

<sup>9</sup>Ibid.

<sup>10</sup> Oakridge City Charter Section 20.(6).

<sup>11</sup> Will require a change to City Charter.

2. The council may transfer some or all the functions of the municipal court to an appropriate state court.<sup>12</sup>

**V. Agendas.** The city administrator shall prepare an agenda for every regular meeting, and, if requested by the presiding officer, for every special meeting.

- A. The city administrator shall take reasonable steps to ensure the agendas and informational material for council meetings are distributed to the council at least seven (7) days preceding the meeting. Unless exceptional circumstances arise, in no instance shall the city administrator fail to provide the city council with the agendas and informational materials needed for council meetings at least three (3) days before the council meeting.
- B. The city administrator may place routine items and items referred by staff on the agenda without council approval or action.
- C. No item shall be placed on the agenda unless it is ready for Council action and/or consideration.
- D. At each regular meeting of the Council, the Mayor and each Council member may bring up items not on the agenda.<sup>13</sup>
- E. The city administrator may remove any items on the consent agenda, any item of old business, any resolution, or any ordinance placed for first reading from the agenda at any time prior to the time the meeting is convened. The presiding officer shall announce such removal under announcements/proclamations.
- F. A member of the council who wishes to have an item placed on the agenda should advise the city administrator at least ten (10) days prior to the meeting.

**VI. Order of Business.** The order of business for all regular meetings shall generally be as follows, however, the city administrator has the right to prepare the agenda with a different order of business; the mayor may adjust the order of business at his or her discretion:

- Call to order.
- Pledge of Allegiance.
- Roll Call.
- Additions, Corrections or Adjustments to the Agenda.

<sup>12</sup> Oakridge City Charter, Section 20.(7).

<sup>13</sup> Oakridge City Code § 30.04.

- Public Comment.

- Mayor's Comments/Announcements/Proclamations.
- Council's Comments.
- Consent Agenda.
- Business from the City Council.
- Business from the City Administration.
- Reports of Boards, Commissions, and Committees.
- Items Removed from the Consent Agenda.
- Ordinances and Resolutions.
- Public Hearings.
- Appointments.
- Other Business.
- Public Comment.
- Adjournment.

A. Call to Order. The presiding officer shall call all meetings of the council to order. The call to order shall note the date, time and location of the meeting so that it may accurately be reflected in the minutes.

B. Pledge of Allegiance. After the meeting is called to order, the pledge of allegiance is recited.

C. Roll Call. The city recorder shall conduct a roll call to determine which members of the council are present and which are absent.

1. The attendance shall be properly reflected in the minutes.

2. If roll call determines that a quorum is not present, the procedures outlined in Section II(B) of these Rules of Procedure shall be followed.

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D. Additions, Corrections or Adjustments to the Agenda. The mayor and the city administrator are permitted to make additions, corrections or adjustments to the agenda. Before making additions, corrections or adjustments to the agenda, the



Mayor should first inquire of the council if any of its members have suggested additions, corrections or adjustments to also be considered.

E. Public Comment

1. Two periods for public comment will be reserved for every regular meeting of the council. Each period shall not exceed a maximum of 30 minutes, unless a majority of councilors present vote to extend the time.
  2. Persons wishing to speak during public comment must sign the “speaker’s roster” with the person’s name and address not later than the call to order.
  3. If a member of the public wishes to speak on an item that is scheduled for a public hearing at that same meeting, the speaker shall wait until that public hearing. Public comment shall not be used to testify about a quasi-judicial land use matter, to testify on an item that is not a public matter, to testify on a matter which has been or is scheduled to be heard by a hearings official, or to provide or gather additional testimony or information on any matter after the official record has been closed on any matter which has been the subject of a public hearing.
  4. Speakers are limited to three minutes. Generally, the speakers will be called upon in the order in which they have signed in on the speaker’s roster. Speakers shall identify themselves by their names and by their place of residence. Speakers may state their mailing address. The presiding officer may allow additional persons to speak if they have not signed the speaker’s roster and sufficient time is left in the 30- minute period.
  5. Should there be more speakers than can be heard for three minutes each during either of the 30-minute periods provided for public comment, the presiding officer may sort the requests to speak in order to afford the greatest opportunity for each topic to be heard. The council also reserve the right, upon a majority vote, to extend the public comment period in thirty-minute increments to allow all interested persons an opportunity to speak.
  6. If the city has the appropriate infrastructure, speakers may play electronic audio or visual material during the time permitted for their comment.
  7. The council will not engage in any discussion or make any decisions during public comment. The council may take comments under advisement during council comments for discussion and action at a future council meeting.
  8. The mayor may direct the city administrator to follow up on any comments received.
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9. In addition to the two identified times for public comment on the agenda, as described above, the council shall provide public comment for each ordinance or resolution being considered – the public comment shall be provided prior to the council taking any action on the ordinance or resolution.

- F. Mayor's Comments/Announcements/Proclamations. The mayor's comments are intended to provide the mayor with an opportunity to briefly provide the council and the community with comments on items not on the agenda. Announcements are intended to be procedural in nature. Proclamations are awards or recognition of individuals by the council.
- G. Council's Comments. The council's comments are intended to provide individual councilors with an opportunity to briefly provide the council and the community with their comments on items not on the agenda.
- H. Consent Agenda. In order to expedite the council's business, the approval of minutes and other routine agenda items shall be placed on the consent agenda.
1. All items on the consent agenda shall be approved by a single motion, unless an item is pulled for further consideration.
  2. Any item on the consent agenda may be removed for separate consideration by any member of the council.
  3. For the purposes of this rule, separate consideration means any proposal to adopt a different course of action than that recommended in the staff report, a determination that debate on a proposed course of action is deemed desirable, any questions to staff on an item, and any item where a member of council must declare a conflict of interest.
- I. Business from the City Council. This portion of the agenda is reserved for business matters requested by or undertaken by the city council.
- J. Business from the City Administrator. This portion of the agenda is reserved for business matters requested by or undertaken by the city administrator.
- K. Reports of Boards, Commissions, Committees, Elected Officials and City Employees. When necessary, reports can be given to the council by boards, commissions, committees, elected officials and/or city employees.
1. When appropriate, reports to the council should include written materials which are provided to the council at least three days in advance of the meeting.
  2. Oral reports to the council should generally not exceed 10 minutes in length.
  3. The council may ask questions of the presenter upon conclusion of the report being given.
- L. Items Removed from the Consent Agenda. Items removed from the consent agenda will be discussed herein, the items shall be discussed in the order in which they were removed from the consent agenda.

M. Ordinances and Resolutions – See Chapter 3

N. Public Hearings Generally

1. A public hearing may be held on any matter upon majority vote of the council. Public hearings may be held to consider legislative, quasi-judicial or administrative matters.
2. Persons wishing to speak shall sign the “hearing roster” with the person’s name and address prior to the commencement of the public hearing at which the person wishes to speak.
3. The presiding officer shall announce at the commencement of any public hearing the subject of the hearing as it is set forth on the agenda. The presiding officer shall then declare the hearing open.
4. Each person shall, prior to giving testimony, give his or her name, shall indicate whether they are a resident of the city, and may give their address. All remarks shall be addressed to the council as a body and not to any member thereof.
5. Speakers at hearings on legislative or administrative matters, other than legislative land use matters, will be limited to three minutes. Speakers at a hearing on a quasi-judicial matter, other than a quasi-judicial land use matter, shall be subject to the following time limits:
  - a. Staff presentation (15 minutes total).
  - b. Applicant or affected party (15 minutes). Quasi-judicial hearing only.
  - c. Appellant, if other than applicant (10 minutes). Quasi-judicial hearing only.
  - d. Other interested persons (3 minutes per person).
  - e. Questions of staff (No time limit).
  - f. Rebuttal by applicant or party. The scope of rebuttal is limited to matters which were introduced during the hearing (7 minutes total).

6. Councilors may, after recognition by the presiding officer, ask clarifying or follow up questions of individuals providing testimony after that individual has completed his or her testimony. Questions posed by councilors should be to provide clarification or additional information on testimony provided. Questions should not be used as an attempt to lengthen or expand the testimony of the individual. Councilors shall be expected to use restraint and be considerate of the meeting time of the council when exercising this option. The presiding officer may intervene if a councilor is violating the spirit of

this guideline.

7. Councilors may, after the presentation of testimony of all interested persons, ask clarifying or follow-up questions of staff. Questions posed by city councilors should be to provide clarification or additional information on testimony provided.
8. The presiding officer may exclude or limit cumulative, repetitious, or immaterial matter. The presiding officer may order the testimony, alternating those speaking in favor and those in opposition, or have all speaking in favor testify, followed by all those in opposition. The presiding officer, with the approval of the council, may further limit the time and/or number of speakers at any public hearing; provided that the presiding officer shall announce any such restrictions prior to the commencement of the testimony. In the event of large numbers of interested persons appearing to testify, the presiding officer, to expedite the hearing, may in lieu of testimony call for those in favor of the pending proposal or those in opposition to rise and direct the city recorder to note the numbers in the minutes.
9. At the end of public testimony and questions of staff, the council shall initiate deliberations by introducing a motion on the matter; continue the hearing; or keep the record open for additional written testimony. During deliberations, each member of the council shall have the opportunity to comment on or discuss testimony given during the public hearing.
10. A copy of any written testimony or physical evidence, which a party desires to have introduced into the record of the hearing, shall be submitted to the city recorder at the time of the hearing. Communications concerning quasi judicial matters received prior to the hearing are ex parte contacts, and a councilor receiving any such communication must disclose the fact that such a communication has been received, and the content of the communication.
11. Documents submitted to the city as evidence or written testimony during a public hearing are public records. If such a document contains the name, address, including email address, and telephone number of the person, then it will be included in the record of the proceeding. Because the name, address, including email address, and telephone number are part of a public record, this information will be generally disseminated to the public, and must be disclosed if a public records request is submitted for the documents. A person

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who believes such disclosure would present a danger to his or her personal safety, and who wishes to exempt his or her address, including email address, and telephone number from disclosure must submit a written request for non disclosure to the city recorder pursuant to ORS 192.455(1).

O. Conduct of Hearings on Land Use Matters – See Chapter 4

P. Written Communications to Council.

1. Unsolicited communications to the mayor and/or council concerning matters on the agenda shall be forwarded to the council in the agenda packet, but shall not be individually itemized on the agenda.
2. Unsolicited communications to the mayor and/or council concerning matters that are not on an agenda shall be forwarded to the mayor and/or council but shall not be included in the agenda packet.
3. The city administrator may, in his or her discretion, bring any matter raised by an unsolicited communication to the attention of the council as an agenda item, provided that such communication is accompanied by a staff report setting forth the reason the matter should be considered by the council, and making a recommendation for council action.

## **CHAPTER 2 – Meeting Time, Location and Frequency**

**I. Regular meetings.** The council shall meet on the first and third Thursday of each month, with the exception of designated holidays and/or council recesses.

A. Meetings shall begin at 7:00 p.m.<sup>14</sup>

B. Meetings shall adjourn at 9:00 p.m., allowing 30-minute increment extensions upon a majority vote of the council.

C. A change of any one regular meeting date may be made by motion duly passed at a regular meeting.<sup>15</sup>

**II. Special meetings.** Special meetings may be called by the mayor or three councilors directing the city administrator to schedule such a meeting in accordance with the State's Public Meetings Law.

A. Notice of the special meeting shall be given to each member of the council, the city administrator, and each recognized representative of the news media which has on file a written request for notice of special meetings.

B. Notice of the special meeting shall be given to all members of the council and the city administrator via telephone and email.

C. Special meetings shall be noticed in accordance with Oregon's public meetings law, and, at a minimum, shall be noticed at least 24 hours prior to the meeting taking place.

**III. Emergency meetings.** Emergency meetings may be called by the mayor or three councilors directing the city administrator to schedule such a meeting in accordance with the State's Public Meetings Law.

A. Notice of the emergency meeting shall be given to each member of the council, the city administrator, and each recognized representative of the news media which has on file a written request for notice of special and/or emergency meetings.

B. Notice of the emergency meeting shall be given to all members of council and the city administrator via telephone and email.

C. Emergency meetings are those meetings called with less than 24 hours' notice and the council shall identify why the meeting could not be delayed 24 hours immediately after calling the meeting to order.

<sup>14</sup> Oakridge City Code § 30.01.

<sup>15</sup> Ibid.

D. The minutes for any emergency meeting shall specifically identify why the meeting constituted an emergency and was necessary.

**IV. Executive Sessions.** Executive sessions may be called by the mayor or three councilors directing the city administrator to schedule such a meeting in accordance with the State's Public Meetings Law.

A. Only members of the council, the city administrator, and persons specifically invited by the city administrator, city attorney or the council shall be allowed to attend executive sessions.

B. Representatives of recognized news media may attend executive sessions in accordance with the following rules and procedures.

1. Pursuant to ORS 192.660(4), representatives of the news media shall be allowed to attend executive sessions other than those held pursuant to ORS 192.660(2)(d) (labor negotiations) or ORS 192.660(2)(h) (litigation – when the member of the news media is a party to the litigation or is an employee, agent, or contractor of a news media organization that is a party to the litigation).
2. The City Council of Oakridge is tasked with the responsibility of determining who is a representative of the news media for purposes of attending an executive session meeting.
  - a. Any interested applicant must complete the Application for Recognition as a Representative of News Media form and submit it and any supporting documents to the Oakridge Recorder. Only applications submitted on the prescribed form will be considered.
  - b. Upon receipt of a completed application and any supporting information, consideration of the application will be placed on the agenda for the city council's next regularly scheduled public session meeting.
  - c. When a complete application for recognition as news media is pending, the city council will delay any scheduled executive session meeting until a decision on the application is made by the city council.
  - d. For guidance as to the type of evidence that would be helpful to the city council's determination, applicants are encouraged to review the April 18, 2016 Oregon Attorney General Opinion, a copy of which is attached to the Application for Recognition as a Representative of News Media.

**V. Work Sessions.** Work sessions are permitted to present information to the council so that the council is prepared for regular or special meetings.

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- A. All work sessions are subject to Oregon's public meetings law and must be noticed accordingly.
- B. Work sessions are intended to allow for preliminary discussions, and the council is not permitted to take formal or final action on any matter at a work session.
- C. Work sessions are to be scheduled by the city administrator.
- D. The city administrator is to invite any relevant staff to work sessions so that the sessions are as productive as possible.

**VI. Holidays.** In the event a regular meeting falls on a holiday recognized by the city, the regular meeting for that week shall either be cancelled or continued to a different date

at the Council's discretion.

**VII. Location.** Council meetings shall be held at the Willamette Activity Center.

- A. In the event the Willamette Activity Center is not available for a meeting, the council shall meet at a venue open to the public which is located within the jurisdictional limits of the city.
- B. Training sessions may be held outside of the city's jurisdictional limits, provided no deliberations toward a decision are made.
- C. Interjurisdictional meetings may be held outside of the city's jurisdictional limits; but, should be held as close as practical to the city, and such meetings shall be located within the jurisdictional boundaries of the other government entity.
- D. No council meeting shall be held at any place where discrimination on the basis of an individuals' race, religion, color, sex, national origin, ethnicity, marital status, familial status, age, sexual orientation, source of income or disability is practiced.

**VIII. Notice.** The city recorder shall provide notice of all meetings in accordance with Oregon's public meeting law.

**IX. Attendance.** Members of the council shall advise the city administrator if they will be unable to attend any meetings. Under the charter, a vacancy is created when the mayor or a councilor is absent from the city for thirty (30) days or upon the person's absence from council meetings for sixty (60) days without the consent of the council and upon a declaration by the council of the vacancy.<sup>16</sup>

<sup>16</sup> Oakridge City Charter, Section 27.

**CHAPTER 3 – Ordinances and Resolutions**

**I. Ordinances.** All ordinances considered by and voted upon by the council shall adhere to the rules outlined herein.

A. Numbering. The city recorder shall number all ordinances with a consecutive identification.

B. Preparation and Introduction.

- 1. All ordinances shall, before presentation to the council, shall be approved by the city attorney, or the attorney's designee. Emergency ordinances will be reviewed circumstances permitting.



2. Ordinances shall be introduced by the city administrator. Except that, upon the request of the council, an ordinance may be introduced by the city attorney.
3. No ordinance shall relate to more than one subject, which shall be clearly expressed in its title, and no ordinance, or section thereof, shall be amended or repealed unless the new ordinance contains the title of the ordinance or section amended or repealed.

C. Calendar of Ordinance.

1. Except as provided otherwise in this Section, an ordinance shall be fully and distinctly read in an open council meeting on two different days before it may be enacted by the Council.
2. The council may enact an ordinance at a single meeting by unanimous vote of all councilors present, provided the ordinance is read first in full and then by title.
3. A reading of an ordinance may be by title only if:
  - B. No councilor present at the reading requests that the ordinance be read in full; or
  - C. At least one week before the reading a copy of the ordinance is provided to each council member, three copies of the ordinance are available for public inspection in the office of the recorder and notice of ordinance's availability is given by written notice posted at the city hall and two other public places in the city.
4. An ordinance read by title only has no legal effect if it differs substantially from its terms as it was filed before the reading unless each section so

differing is read fully and distinctly in the open council meeting before the council adopts the ordinance.<sup>17</sup>

5. When the calendar of second reading or an ordinance which is to be considered separately is placed before the council for final passage, the city recorder, unless a written ballot vote is requested by the mayor or a council member, shall call each council member's name at random and record the council member's vote in the minutes of the meeting. When a written ballot vote is requested, the city recorder shall read into the record each council member's name and vote.
6. An abstention from voting shall not count as a vote for or against the motion, nor affect the power of the council to act for lack of a quorum.
7. An affirmative vote of four (4) council members shall be necessary to pass an

ordinance.

8. When an ordinance is rejected by the council, and is not reconsidered as provided by these rules, neither the ordinance, nor any other ordinance which contains substantially the same provisions, shall be considered by the council for a period of not less than six months, unless at least four (4) members of the council petition for early consideration.
9. All adopted ordinances shall be signed by the mayor and endorsed by the city recorder. **The date of enactment shall be included on every adopted ordinance.**
10. A non-emergency ordinance takes effect on the thirtieth (30<sup>th</sup>) day after its enactment or on a later day the ordinance prescribes. An ordinance enacted to meet an emergency may take effect as soon as enacted or upon a date specified in the ordinance which is less than thirty (30) days.<sup>18</sup>
11. The filing of a referendum petition shall suspend the effective date of an ordinance.

**II. Resolutions.** All resolutions considered by and voted upon by the council shall adhere to the rules outlined herein.

- A. Numbering. The city recorder shall number all resolutions with a consecutive identification number during each calendar year, in the order of their introduction. Each number shall be followed by the year in which the resolution was introduced.

<sup>17</sup> Oakridge City Charter, Section 30.

<sup>18</sup> Ibid.

B. Preparation and Introduction.

1. Before a resolution is presented to council, the city administrator shall review the resolution, and if necessary in his or her determination, submit the resolution to the city attorney for additional review.

1. Resolutions shall be introduced by a member of the council. Except that, upon the request of the council, a resolution may be introduced by the city administrator or the city attorney, with a member of the council moving further action on such resolution upon completion of the introduction.

C. Calendar of Resolution.

1. A resolution is introduced for consideration by the council for presentation for first reading. After introduction, the council may direct that:

- a. A public hearing on the resolution be held;
  - b. Pass the resolution to a second reading;
  - c. Reject the resolution in whole or in part; or
  - d. Adopt the resolution in whole or in part.
2. All resolutions when introduced for first reading shall be identified by title and number on a calendar of first reading.
  3. When a resolution which is to be considered is placed before the council for final passage, the city recorder, unless a written ballot vote is requested by the mayor or a council member, shall call each council member's name at random and record the council member's vote in the minutes of the meeting. When a written ballot vote is requested, the city recorder shall read into the record each council member's name and vote.
  4. A second reading of a resolution is permitted to occur at the meeting where it is introduced, and a resolution may be passed at a single meeting by a unanimous vote for passage by all members of the council present.
  5. An affirmative vote of four (4) council members shall be necessary to pass an ordinance.
  6. When a resolution is rejected by the council, and is not reconsidered as provided by these rules, neither the resolution, nor any other resolution which contains substantially the same provisions, shall be considered by the council for a period of not less than three months, unless at least four (4) members of the council petition for early consideration.

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7. All adopted resolutions shall be signed by the mayor and endorsed by the city recorder. The date of enactment shall be included on every adopted resolution.
8. A non-emergency resolution takes effect on the thirtieth (30<sup>th</sup>) day after its enactment or on a later day the resolution prescribes. A resolution enacted to meet an emergency may take effect as soon as enacted or upon a date specified in the resolution which is less than thirty (30) days.

## CHAPTER 4 – Land Use Hearings

### I. General Conduct of Hearings.

- A. Any party may speak in person or through an attorney to present the party's case.
- B. A copy of any written testimony or physical evidence which a party desires to have introduced into the record at the time of hearing shall be submitted to the city recorder at the time the party makes his or her presentation. If the testimony or evidence is not submitted to the city recorder, it shall not be included in the record for the proceeding.
- C. No person may speak more than once without obtaining permission from the presiding officer.
- D. Upon being recognized by the presiding officer, any member of the council, the city administrator, planning director or the city attorney may question any person who testifies.
- E. Testimony shall be directed towards the applicable standards and criteria which apply to the proposal before the council.
- F. The presiding officer may exclude or limit cumulative, repetitious, or immaterial testimony. To expedite hearings, the presiding officer may call for those in favor and those in opposition to rise, and the city recorder shall note the numbers of such persons for the record in the minutes.

### II. Quasi-Judicial Land Use Matters.

- A. Scope of Review. All appeals and council-initiated review in quasi-judicial land use proceedings shall be new (de novo) and shall be held on the record.
- B. Conflicts of Interest.
  - 1. A member of the council shall not participate in a discussion or vote in a quasi-judicial land use proceeding if:
    - a. The member has an actual conflict of interest as defined by the Oregon Revised Statutes or the city charter.
    - b. The member was not present during the public hearing; provided, however, the member may participate if they have reviewed the evidence, including recordings of the hearing, and declared such fact for the record.
  - 2. A member of the council who has a potential conflict of interest as defined by the Oregon Revised Statutes or the city charter shall disclose the conflict but is permitted to participate in the discussion and vote on the matter.

3. Members of the council shall reveal any ex parte contacts with regard to the proceeding at the commencement of any quasi-judicial land use proceeding. If such contact impairs the member's impartiality, the member shall state this fact and abstain from participation in the matter.

C. Burden of Proof. The proponent has the burden of proof on all elements of the proposal, and the proposal must be supported by proof that it conforms to all applicable standards and criteria.

1. The decision of the council shall be based on the applicable standards and criteria as set forth in the city's municipal code, the city's comprehensive plan, and, if applicable, any other land use standards imposed by state law or administrative rule.
2. The proponent, any opponents, and/or city staff may submit to the council a set of written findings or statements of factual information which are intended to demonstrate the proposal complies or fails to comply with any or all applicable standards and criteria.

D. Hearing Procedures. The order of hearings in quasi-judicial land use matters shall be:

1. Land Use Hearing Disclosure Statement. The city recorder shall read the land use hearing disclose statement, which shall include:
  - a. A list of the applicable criteria;
  - b. A statement that testimony, arguments and evidence must be directed toward the applicable criteria or other criteria in the plan or land use regulations which the person believes to apply to the decision;
  - c. A statement that failure to raise an issue accompanied by statements or evidence sufficient to afford the council and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue; and
  - d. If applicable, a statement that a failure to raise constitutional issues relating to proposed conditions of approval precludes an action for damages in circuit court.
2. Call for ex parte contacts. The presiding officer shall inquire whether any member of the council has had ex parte contacts. Any member of the council announcing an ex parte contact shall state for the record the nature and content of the contact.

3. Call for Potential Conflicts of Interest. The presiding officer shall inquire

whether any member of the council has a potential conflict of interest. Any member of the council with a potential conflict of interest must publicly disclose the conflict but is still permitted to participate in the discussion and vote.

4. Call for abstentions. The presiding officer shall inquire whether any member of the council must abstain from participating in the hearing due to a conflict of interest. Any member of the council announcing a conflict of interest shall state the nature of the conflict, and shall not participate in the proceeding, unless the person's vote is necessary to meet a requirement of a minimum number of votes necessary to take official action; provided, however, that the member shall not participate in any discussion or debate on the issue of which the conflict arises.
  5. Staff summary. City staff, or their representative, shall present a summary and recommendation concerning the proposal.
  6. Presentation of the Case.
    - a. Proponent's case. Twenty minutes total.
    - b. Persons in favor. Five minutes per person.
    - c. Persons opposed. Five minutes per person.
    - d. Other interested persons. Five minutes per person.
    - e. Rebuttal. Ten minutes total. Rebuttal may be presented by the proponent. The scope of rebuttal is limited to matters which were introduced during the hearing.
  7. Close of hearing. No further information shall be received after the close of the hearing, except for specific questions directed to staff. If the response to any such questions requires the introduction of additional factual evidence, all parties shall be afforded an opportunity for simultaneous written rebuttal.
  8. Deliberations. Deliberations shall immediately follow the hearing. The council may delay deliberations to a subsequent time certain.
  9. Findings and Order. The council may approve or reject the proposal.
    - a. The council shall adopt findings to support its decision.
    - b. The council may incorporate findings proposed by the proponent, the opponent or staff in its decision.
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- c. An affirmative vote of four (4) council members shall be necessary to take any official action.

- E. Continuances. Only one continuance is available by right. However, nothing in this section shall restrict the council, in its discretion, from granting additional continuances. Any continuance shall result in a corresponding extension of the 120-day time limitations imposed by the Oregon Revised Statutes.

### **III. Legislative Land Use Matters.**

- A. Hearings Procedures. The order of procedures for hearings on legislative land use matters shall be:

1. Call for abstentions. Inquire whether any member of the council wishes to abstain from participation in the hearing. Any member announcing an abstention shall identify the reason therefor and shall not participate in the proceedings.
2. Staff summary. Staff, or its representative, shall present a statement of the applicable criteria, and a summary and recommendation concerning the proposal.
3. Presentation of the Case.
  - a. Proponent's case. Twenty minutes total.
  - b. Persons in favor. Five minutes per person.
  - c. Persons opposed. Five minutes per person.
  - d. Other interested persons. Five minutes per person.
4. Close of hearing. No further information shall be received after the close of the hearing, except for responses to specific questions directed to staff.
5. Deliberations. Deliberations shall immediately follow the hearing. The Council may delay deliberations to a subsequent time certain.
6. Reopening hearing. Prior to the second reading of an ordinance relating to a legislative land use matter, and upon a majority vote of the council, a hearing may be reopened to receive additional testimony, evidence or argument. The same notice requirements shall be met for the reopened hearing as were required for the original hearing.

- I. Motions.** All motions shall be distinctly worded.

A. The following rules shall apply to motions:

1. If a motion does not receive a second, it dies.
2. The council will discuss a motion only after the motion has been moved and seconded.
3. Any motion shall be reduced to writing if requested by a member of the council.
4. A motion to amend can be made to a motion that is on the floor and has been seconded.
5. A motion may be withdrawn by the mover at any time without the consent of the council.
6. Amendments are voted on first, then the main motion if voted on as amended.
7. A member of the council may have a motion which contains several elements divided, but the mover shall have the right to designate which element will be voted on first.
8. A call for the question is intended to close the debate on the main motion; such a motion does not require a second and is not debatable.
  - a. A call for the question fails without a majority vote.
  - b. Debate on the main subject resumes if the motion fails.
9. A motion that receives a tie vote fails.
10. The presiding officer, except for motions to accept the consent calendar, shall repeat the motion prior to a vote.
11. A motion to adjourn cannot be amended.

B. Motion to Reconsider. A motion to reconsider may only be made by a member of the prevailing side. Any member may second the motion.

1. No motion to reconsider shall be made more than once.
2. The motion to reconsider shall be made before the final adjournment of the meeting in which the action was considered.

C. Motions Generally. The following information is intended to guide the council.

To Do This	You Say This	May You Interrupt Speaker	Must You Be Seconded	Is the Motion Debatable	What Vote is Required
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*Adjourn the meeting	"I move that we adjourn"	No	Yes	No	Majority
Recess the meeting	"I move that we recess until ..."	No	Yes	No	Majority
*Complain about noise, room temp., etc.	"Point of privilege"	Yes	No	No	No vote
*Suspend further consideration of something	"I move we table this matter"	No	Yes	No	Majority
End debate	"I move the previous question"	No	Yes	No	2/3 Vote
Postpone consideration of something	"I move we postpone this matter until"	No	Yes	No	Majority
Have something studied further	"I move we refer this to ..."	No	Yes	Yes	Majority
Amend a motion	"I move to amend this motion"	No	Yes	Yes	Majority
Introduce business (a primary motion)	"I move that ..."	No	Yes	Yes	Majority
*Object to procedure or to personal affront	"Point of order"	Yes	No	No	No vote, Chair decides
*Request information	"Point of information"	Yes	No	No	No vote
*ask for a vote count to verify a voice vote	"I call for a division of the house"	No	No	No	No vote
*Object to considering some matter	"I object to consideration of this"	Yes	No	No	2/3 vote

*Take up a matter previously tabled	“I move to take from the table...”	No	Yes	No	Majority
*Reconsider something already disposed of	“I move we reconsider action on...”	Yes	Yes	Yes	Majority

*Consider something not in scheduled order	“I move we suspend the rules and ...”	No	Yes	No	2/3 vote
*Vote on a ruling by the presiding officer	“I appeal the presiding officer’s decision”	Yes	Yes	Yes	Majority

\* = NOT AMENDABLE

**II. Debate.** The following rules shall govern the debate of any item being discussed by the council.

A. Every member desiring to speak shall address the presiding officer, and, upon recognition by the presiding officer, shall confine him or herself to the question under debate, at all times acting and speaking in a respectful manner.

B. A member, once recognized, shall not be interrupted when speaking unless it is to be called to order, or as herein otherwise provided.

C. The member of the council moving the adoption of any ordinance or resolution shall have the privilege of closing the debate.

**III. Voting.** The following rules shall apply to voting on matters before the council, unless amended in the manner outlined in Chapter 4 of these Rules.

A. Reports. The affirmative vote of four (4) council members shall be required to approve or accept a report. However, no vote is required if the report is only for informational purposes.

B. Consent Agenda. The unanimous vote of all members of the council present is required to approve the matters on a consent agenda.

C. Resolutions. The affirmative vote of four (4) council members shall be required

to pass a resolution.

- D. Ordinances. The affirmative vote of four (4) council members shall be required to pass all ordinances which are not emergency ordinances.
- E. Emergency Ordinance. An emergency ordinance shall require the unanimous vote of all members present.
- F. Budget. The affirmative vote of four (4) council members shall be required to adopt the city's budget.
- G. Franchise. The affirmative vote of four (4) council members shall be required to approve a franchise agreement.

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- H. Suspension of Rules. A unanimous vote of all members of the council present shall be required to suspend or rescind a rule contained in these rules of procedure, however, rules in this chapter which also appear in the city's charter or municipal code shall not be suspended or rescinded.
- I. All votes shall be recorded in the minutes. The recorder shall identify the vote of each councilor and the mayor, on all actions taken during a council meeting, in the city's minutes.

## CHAPTER 6 – Minutes

### I. Generally.

- A. All minutes of regular, special or emergency meetings shall be in written form, with an electronic copy of the meeting maintained by the city recorder in accordance with the appropriate record retention schedule. All minutes of executive sessions shall be in electronic format and be maintained by the city recorder in accordance with the appropriate record retention schedule.
- B. The minutes shall contain the following information:
  - 1. The date, time and place of the meeting;
  - 2. The council members and staff present;
  - 3. The motions, proposals, resolutions, orders, ordinances, and measures proposed and their disposition;
  - 4. The results of all votes and the vote of each member by name;
  - 5. The substance of any discussion on any matter; and
  - 6. A reference to any document discussed at the meeting.

### II. Approval. The council shall approve all minutes of any meeting.

- A. All minutes shall be approved within sixty days of the meeting having occurred. Audio and video recordings shall be posted to the city website within five business days of the meeting having occurred.
- B. The draft minutes shall be submitted to the council as part of the council's packet prior to the meeting where they will be discussed.
- C. Any member of the council may request an amendment or correction of the minutes prior to a final vote being taken on the minutes.

## CHAPTER 7 – Appointments

**I. Appointments of City Staff.** The mayor, with council approval, appoints and can remove those positions identified in the city’s charter. All appointments require a four (4) affirmative votes.

A. Reviews. Any person appointed by the mayor, with council approval, shall be subject to an annual review by the council.

B. Removals. All appointed persons may be removed by the mayor, with four affirmative votes from the council.

C. Interference. If the mayor, with council approval, appoints a municipal judge, the mayor and council may meet with the judge, but in no instance shall the mayor or council be permitted to interfere with the judge’s exercise of judicial authority or discretion.

## II. Appointments of Members to Boards, Commissions and/or Committees.

A. Unless otherwise mandated by state law, the mayor, subject to approval by the council, shall appoint the members of any board, commission or committee authorized by the council.

B. Unless otherwise prohibited by the council, the mayor, subject to approval by the council, shall have the authority to create and appoint subcommittees of committees authorized by the council.

C. Unless authorized by the council, no member of council may occupy a board or committee seat designated for a citizen.

D. Unless authorized by the council, no staff member may occupy a board, commission or committee seat designated for a citizen.

E. Removals. All appointed persons may be removed by the mayor, subject to approval by the council.

## CHAPTER 8 – Ethics, Decorum, Outside Statements

**I. Ethics.** All members of the council shall review and observe the requirements of state ethics laws. In addition to complying with state ethics laws, all members of the council shall refrain from:

- A. Disclosing confidential information.
- B. Taking action which benefits special interest groups or persons at the expense of the city as a whole.
- C. Expressing an opinion contrary to the official position of the council without so saying.
- D. Conducting themselves in a manner so as to bring discredit upon the government of the city.
- E. Sign and adhere to the personal Code of Conduct of the City of Oakridge.

### **II. Decorum.**

- A. The presiding officer shall preserve decorum during meetings and shall decide all points of order, subject to appeal of the council.
- B. Members of the council shall preserve decorum during meetings, and shall not, by conversation or action, delay or interrupt the proceedings or refuse to obey the orders of the presiding officer or these rules.
- C. Members of the city staff and all other persons attending meetings shall observe the council's rules of proceedings and adhere to the same standards of decorum as members of council.

### **III. Statements to the Media and Other Organizations**

- A. Representing City. If a member of the council, to include the mayor, appears as a representative of the city before another governmental agency, the media or an organization to give a statement on an issue, the member may only state the official position of the city, as approved by a majority of the council.
- B. Personal Opinions. If a member of the council, to include the mayor, appears in their personal capacity before another governmental agency, the media or an organization to give a statement on an issue, the member must state they are expressing their own opinion and not that of the city before giving their statement.

**CHAPTER 9 – Interactions with Staff & City Attorney**

- I. Staff.** All members of the council shall respect the separation between the council's role and the city's administrator's responsibility by:
- A. Not interfering with the day-to-day administration of city business, which is the responsibility of the city administrator.
  - B. Refraining from actions that would undermine the authority of the city administrator or a department head.
  - C. Limiting individual inquiries and requests for information from staff to those questions that may be answered readily as part of staff's day-to-day responsibilities. Questions of a more complex nature shall be directed to the city administrator. In no instance is a council member authorized to give a directive to a staff member.
- II. City Attorney.** Council members who believe advice from the city attorney is needed should work with the city administrator to identify their concern, reduce the concern to a question and the city administrator will work with the city attorney to resolve the inquiry or concern. This does not prevent council from seeking advice from the city attorney.

## CHAPTER 10 –Removal & Censure

**I.** The council may enforce these rules and ensure compliance with city ordinances, the charter and state laws applicable to governing bodies. If a member of council violates these rules, city ordinances, the city charter or state laws applicable to governing bodies, the council may take action to protect the integrity of the council and discipline the member with a public reprimand or removal as provided for in the city charter.

**II. Censure.** Any council member who violates any general law or regulation, and any rule, law, ordinance or resolution of the City of Oakridge may be reprimanded through the administration of a public censure of the member by the council. Such censure may be in addition to any other lawful action or punishment applicable to the violation. For purposes of this section, “censure” shall mean the adoption of a resolution setting forth a formal statement of disapproval of a councilmember’s conduct.

A. Notice and Opportunity to Cure. A council member may not be made the subject of a motion for censure without first being given notice of the alleged violation and an opportunity to correct the violation, if it can reasonably be corrected.

B. Initiation of Proceedings. Upon a continued violation or failure to correct, the charged councilmember shall be given notice and an opportunity to be heard as follows:

1. Only a sitting council member may initiate proceedings for the censure of one of its members.
2. Proceedings shall be commenced by the presentation of a written statement of charges to the subject councilmember with a copy delivered concurrently to the City Administrator by the member initiating the charge.
  - a. Initiation shall not require the prior approval of the council.
  - b. The statement of charges shall be given at least ten (10) days prior to the meeting at which the censure motion is proposed to be brought.
  - c. The notice shall contain, at a minimum, the designation of the specific rule, law, regulation, etc., which the member is claimed to have violated and a statement of the date, place and time at which such violation occurred. The statement shall further contain a description of the conduct of the member which is alleged to constitute the violation.
  - d. A copy of the statement of charges shall be delivered to all other councilmembers.

3. Within seven (7) days after delivering of the statement of charges, the charged



councilmember should deliver a written response to the city administrator, which the city administrator will make publicly available. The charged councilmember retains the right to choose to defer releasing their response until the hearing.

C. Hearing. The motion for censure shall be placed on the agenda and considered at the first regular meeting occurring at least ten (10) days following delivery of the statement of charges to the charged councilmember and city administrator.

1. The hearing shall be conducted in an open session by the Mayor unless the Mayor is the party to the action, in which case the Council President or some other member shall conduct the proceedings.
2. The hearing shall generally proceed by a reading of the charges by the initiating councilmember. The charging councilmember may present witnesses; the charged councilmember may answer in rebuttal; members of the public may speak in favor or opposition to the charge; and the remaining councilmembers may speak to the charges in that order.
3. Passage of the motion for censure shall require four affirmative votes of the council.

D. Failure to Censure. If the motion for censure does not pass, the proceedings shall be concluded. A new motion for censure on the same grounds of violation may not thereafter be commenced against the same councilmember for a period of one (1) calendar year from the date of the vote. However, new proceedings may be commenced on the same charges within the one (1) year period on the affirmative or unanimous vote of the non-charged councilmembers.

E. Sanctions. If the motion for censure does pass, such motion shall be reduced to a resolution that explains the charges, summarizes the testimony of the hearing, and delivers the opinion of the council. The resolution shall become a part of the public record, a copy of which shall be made available upon demand to any member of the public.

**III. Removal.** Section 27 of the city charter allows the city council to remove one of its members from the council under certain conditions.

i. Reasons for Removal. Upon any of the below occurrences, the council may remove a councilmember from office:

1. The member has died;
2. The member has become incapacitated;

3. The member has been convicted of an offense that has the statutory penalty of a year or more of incarceration;

4. The member has established his or her residency outside of the city's limits;
5. The member fails to possess the qualifications necessary to hold office as those qualifications are outlined in the city's charter; and/or
6. The member upon being elected to his or her position fails to meet the qualifications for the office, as outlined in the city's charter, within three days after the time for his or her term of office to commence.

ii. Vote for Removal. The council may not vote to remove a member unless it has first consulted with its city attorney, and only then may the member be removed from council upon a unanimous vote of the council.

**IV.** The council may investigate the actions of any member of council and meet in executive session, upon advise of the city attorney, under ORS 192.660(2)(b) to discuss any finding that reasonable grounds exist that a violation of these rules, local ordinance, the city charter or state laws applicable to governing bodies has occurred. Sufficient notice must be given to the affected member to afford them the opportunity to request an open hearing under ORS 192.660(2)(b).

**I. Amendment.** These rules of procedure are subject to amendment by the council in

accordance with the processes noted herein.

- A. Any proposed amendment to these rules shall be noted on an agenda for a regular meeting, wherein the same shall be discussed, and open for comment by the public.
- B. All amendments to these rules require an affirmative vote of four (4) council members.
- C. Amended rules shall not go into effect until the meeting after the rule was approved.

**II. Repeal.** These rules of procedure are subject to repeal and replacement by the council in accordance with the rules noted herein.

- A. Any proposed repeal and replacement of these rules shall be noted on an agenda for a regular meeting, wherein the same shall be discussed, and open for comment by the public.
- B. Any repeal and replacement of these rules requires an affirmative vote of four (4) council members.
- C. Any repeal and replacement of these rules shall not go into effect until 30 days after the replacement rule was approved.

## Business of the City Council

City of Oakridge, Oregon

*December 3, 2020*

**Agenda Title: City of Oakridge Social Media Policy**

**Agenda Item No: 5.0**

**Proposed Council Action: A motion from the floor to approve Resolution 24-2020.**

**Exhibits: (1) Draft Social Media Policy  
(2) LOC Model Social Media Policy  
(3) Elected Official One-Pager  
(4) Lawsuit Examples**

**Agenda Bill Author: Bryan Cutchen**

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**ISSUE:** Technology has become an everyday part of the workplace. Computers and the internet are now standard workplace tools. In a very short span of time, social media has evolved from a technological fad to a potentially long-term, effective communication option for cities. Cities should develop a comprehensive email and social media use policy to manage legal risks such as violations of public records law and protections on free speech.

**FISCAL IMPACT:** None.

**OPTIONS:** (1) Approve Resolution 24-2020.  
(2) Do not approve Resolution 24-2020.

**RECOMMENDATION:** Staff recommends option 1.

**RECOMMENDED MOTION:** I move we approve Resolution 24-2020, a resolution adopting the City of Oakridge Social Media Policy.

# Email and Social Media Policy

December 2020



## FOREWORD

Technology has become an everyday part of the workplace. Computers and the internet are now standard workplace tools. In a very short span of time, social media has evolved from a technological fad to a potentially long-term, effective communication option for cities. The City of Oakridge desires to develop a comprehensive email and social media use policy to manage legal risks such as violations of public records law and protections on free speech. This policy does not address the off-duty private use of email and social media accounts that does not relate to public business. However, emails and social media posts are considered public records if they relate to the city's business regardless if the email is sent from, or the social media is posted from a private account. Thus, these public records must be properly retained pursuant to the city's records retention policy. Additionally, cities may not restrict an individual's First Amendment free speech rights by regulating the content of their social media posts. The City of Oakridge may, however, regulate the time, place, and manner in which free speech is permitted and thus, manage public comments on the city's social media accounts accordingly.

# MODEL EMAIL AND SOCIAL MEDIA POLICY

## Part I: Email

### Use

1. Each staff member and official will be assigned a unique email address that is to be used while conducting city business via email. The unique email address assigned to an employee is the property of the city. An individual may only use their assigned email address while employed by the city.
2. The city retains the right to intercept, monitor, review and disclose any and all messages composed, sent or received.
3. All email systems are city property. All messages stored on city systems or composed, sent or received by any staff or official are the property of the city. Furthermore, all messages composed, sent or received by any person using city-provided equipment are property of the city. Emails are not the property of any employee or official.
4. Email systems are intended to be used primarily for business purposes. Any personal use must not interfere with normal business activities, must not involve solicitation, and must not be associated with any for-profit business activity.<sup>1</sup> All messages sent by email are city records.
5. The use of privately owned email accounts for sending and receiving work related email messages is highly discouraged. However, if these resources are used for work-related purposes, the user must transfer all work-related messages to a city-owned system or network and must realize that these private accounts may be subject to public disclosure and retention requirements.
6. All communications via email in connection with the transaction of public business constitute public records except under certain circumstances. Electronic communications, like other public records, must be available upon request to any individual, agency or others outside the organization, unless the information is legally exempt from disclosure.
7. Except as specifically designated below, city staff and officials are prohibited from using City email accounts to send or receive:
  - a. Information about actual or potential claims and litigation involving the city;
  - b. The intellectual property of others, without written permission;
  - c. Photographs of employees or members of the public, without written permission;

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<sup>1</sup> Cities who wish to limit email use to business purposes only should replace this language with the following: "Email systems are to be used for business purposes only. Personal use of city email systems is strictly prohibited."

- d. Any personal, sensitive or confidential information;
- e. Computer viruses or other harmful programs;
- f. “Chain letters” or junk mail;
- g. Material or comments that are derogatory to any individual or group, or of a defamatory, threatening or harassing nature;
- h. Racist, sexist and other disparaging language about a group of people;
- i. Obscene, pornographic, offensive or illegal materials or links;
- j. Sexual comments about, or directed to, anyone; or
- k. Any communication for any other purpose which is illegal, against city policy, or contrary to the city’s interest.

This prohibition does not apply to attorney-client communications between city staff and officials and the city attorney or other city staff and officials designated to assist with legal matters.

#### **Records Retention:**

1. The city must maintain and preserve records in compliance with the Oregon Public Records Law. The Public Records Law applies regardless of whether the email communication is sent from a public or private email address.
2. The retention of records stored in electronic systems, including email, is governed by the city’s retention schedule and OAR Chapter 166, Division 200. If you have a question regarding the retention of a record, please contact the city recorder.
3. An email inbox should not be used for storage. The email should be printed or stored electronically and put into the appropriate file. However, email related to a current project or issue may be retained on the system as a reference tool. Once the project is completed or the issue resolved, the user should transfer all relevant email to the appropriate file and delete the email from their inbox.

#### **Security Precautions**

1. Viruses and other malicious code can spread quickly if appropriate precautions are not taken:
  - a. Be suspicious of messages sent by people not known by you.
  - b. Do not open attachments unless they were anticipated by you.



- c. Disable features in emails that automatically preview messages before opening them.
- d. Do not forward chain letters; simply delete them.

**Any staff member in violation of this email policy is subject to disciplinary action pursuant to the city's personnel manual, including but not necessarily limited to termination.**

## Part II – Social Media

### Use

1. “Social media” includes blogs, Facebook, Twitter, YouTube and other similar accounts.
2. The city shall identify those employees authorized to use social media on behalf of the city. Only those employees who are authorized shall engage in social media activities on behalf of the city. The city manager shall maintain a list of authorized social media users.
3. All social media accounts shall be created using a city-issued email address, whenever possible.<sup>2</sup> This will ensure that:
  - a. Personal and professional communications are separated;
  - b. The city can back up public conversations because the city owns and controls the email address;
  - c. The city can access the site when the employee is out on vacation or otherwise away from the office or leaves employment with the city; and
  - d. The city can determine that the site is legitimately the city’s and not a rogue site generated from a private email address.
4. The city shall notify users and visitors to the social media site that the purpose of the site is to facilitate communication between the city and the public. Each site shall contain the following message:

This site is created by the city of Oakridge. This site is intended to serve as a mechanism for communication between the public and the city of Oakridge on all topics relevant to city business. The city of Oakridge reserves the right to remove comments or postings that violate any applicable laws. A list of content that will be removed may be viewed at:

[https://www.ci.oakridge.or.us/sites/default/files/fileattachments/administrative\\_services/page/14121/social\\_media\\_user\\_guidelines.pdf](https://www.ci.oakridge.or.us/sites/default/files/fileattachments/administrative_services/page/14121/social_media_user_guidelines.pdf). Postings to this site are public records of the city of Oakridge and may be subject to disclosure under the Oregon Public Records Law.

The city of Oakridge does not endorse or sponsor any advertising posted by the social media host, that the social media is a private site, or the privacy terms of the site apply. The city of Oakridge does not guarantee reliability and accuracy of any third-party links.

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<sup>2</sup> Some social media sites, such as Facebook, prohibit creation of a government “page” without the use of a personal account. In those instances, the city should provide a process for transition of page management in the event the person holding the primary personal account associated with the page leaves the city.

5. Where possible, all social media sites will display the city's logo for consistency and authenticity.
6. Social media posts are considered public records if posts are made on an official city account; *or* on a city staff member or official's private account which makes or receives comments on city matters.
7. The city and its employees and officials shall not discriminate against public speech based on content or viewpoint. The city, its staff and its officials may not engage in viewpoint discrimination. All persons who wish to "friend," "follow," "re-tweet," etc. must be allowed to do so.
8. The following content posted by the public may be removed:
  - a. Comments not topically related to the particular article being commented upon;
  - b. Comments in support of or opposition to political campaigns or ballot measures;
  - c. Profane language or content;
  - d. Content that promotes, fosters or perpetuates discrimination upon the basis on race, religion, gender, gender identity, marital status, familial status, national origin, age, mental or physical disability, sexual orientation, source of income, or other protected status under applicable law;
  - e. Inappropriate sexual content or links to inappropriate sexual content;
  - f. Solicitations of commerce, *e.g.*, ads;
  - g. Conduct or encouragement of illegal activity;
  - h. Private and confidential information;
  - i. Information that may tend to compromise the safety or security of the public or public systems; or
  - j. Content that violates a legal ownership interest of any other party.

These guidelines shall be displayed to all users or made available by hyperlink. Any content removed must be retained, including the time, date and identity of the poster when available.

## Personal Social Media Accounts

Elected officials are not permitted to use their personal social media account as an extension of their office to carry out their official duties or solicit public views about support.

All city officials and employees may have personal social media sites. These sites should remain personal in nature and be used to share personal opinions or non-work related information. Following this principle helps ensure a distinction between sharing personal and city views.

City officials and employees must never use their city e-mail account or password in conjunction with a social media site. The following guidance is for agency employees who decide to have a personal social media or who decide to comment on posts about official city business:

1. State your name and, if relevant, role, when discussing agency business;
2. Use a disclaimer such as: “The postings on this site are my own and don’t reflect or represent the opinions of the agency for which I work.”

If social media is used for official agency business, the entire agency site, regardless of any personal views, is subject to best practice guidelines and standards.

## Records Retention

1. The city must maintain and preserve social media records in compliance with the Oregon Public Records Law. The Public Records Law applies regardless of whether the social media site is hosted by the city or a third party.
2. Those engaged in social media activities must be familiar with the city’s records retention schedule. Any posted original content that is not a copy of a preexisting city record must be captured and retained by saving a copy and providing it to the city’s records custodian.
3. Social media content shall be retained by composing and retaining message in local software and noting the time and date posted, or by capturing screenshots of the post once it is on the page.<sup>3</sup>
4. Non-Original Social Media Content Maintained Elsewhere  
Any posted content that is a copy of a city record that exists in another location does not need to be separately preserved, provided that the original content is being retained in compliance with the appropriate city retention schedule and media preservation requirements. Employees should use social media applications exclusively as a mechanism for providing the public with links or references to content that is maintained as an official city record elsewhere. Links or references posted to social media accounts are considered convenience

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<sup>3</sup> The city may utilize third party software that can coordinate multiple social media accounts and capture social media content automatically for a city.

copies which need to be retained only “as needed” or “until superseded.”

5. Original Social Media Content

Any posted original content that constitutes a city record and that is not preserved and retained elsewhere in compliance with the appropriate city retention schedule, must be captured by the city and retained according to the appropriate schedule and preservation requirements. The person who posts the content is responsible for retaining and preserving the record.

a. Speeches/Statements/News Releases/Program Activity Records

Content that contains written or photographed accounts of a city event, or summary of such events posted to social media are considered statements and reports for retention purposes and should be retained generally for two years from the time they are “published.” If these posts contain policy or historically significant content, they must be retained permanently.

b. Correspondence

Incoming messages from the public that arrive via the city’s social media account should be treated as correspondence. Messages completely unrelated to the city’s activities does not need to be retained. If the message relates to the city’s activities or functions, it must be captured and retained per the retention category that most closely corresponds to the content of the message. Staff are advised to respond to correspondence via email or other “offline” messaging methods and if possible, communicate directly with the individual and maintain that correspondence.

c. Content Associated with a Specific Function or Activity

Information received from the public in response to social media posts used as a public entry point to solicit specific information—such as conducting a poll or to launch a process or placing an order—should be retained along with other records associated with that function or activity using the appropriate retention schedule.

**Any staff member in violation of this social media policy is subject to disciplinary action pursuant to the city’s personnel manual, including but not necessarily limited to termination.**



# How to talk to your elected officials about **SOCIAL MEDIA**



## Clarify the Difference Between a Profile & Page

- A **profile** is an account private individuals use to represent themselves on Facebook.
- A **page** is an extension of a profile that is used to represent a business, government, or public figure. A page allows for access to government (which is limited when using a profile as you have to be "friends" to see what's there). Also a page has additional management & reporting tools, messaging & capture capabilities, and is able to be adequately archived for public record law purposes (unlike profiles).
- Public officials should create Pages to represent themselves as public figures while in office to separate their personal posts from their official posts. City & District-related matters & all public records generated from those pages are then easily archived & not intermingled with personal data not related to City or District matters.



## Train on Your Social Media Policy

The official social media page for the Office is owned by your public entity, not your elected official (e.g. Facebook page for the Office of the Mayor). Therefore, officials need to be aware of how to conduct business on the page in accordance with your social media policy. Be sure to educate the official on the risks of comment moderation, other First Amendment concerns, and public records law. Make sure your social media policy is published on the page and followed by your official.



## Establish Policies on What Elected Officials Can & Cannot Do on Their Private Pages

Make sure your elected officials are aware of how to behave responsibly on social media so that they don't expose your public entity to risk. This includes officials not using their social media account as an extension of your office to carry out their official duties or solicit public views about support. A policy for your elected-officials should include:

- Information considered privileged or confidential under State General Statutes
- Public Records Law, Local Government Retention Schedules, & Digital Records Policies & Guidelines
- How best to communicate with City Departments to avoid creating public records on City employees' personal accounts
- Avoiding conflicts of Interest
- Adding disclaimers to personal profiles about personal views that do not reflect the City
- Avoiding Open Meetings Law violations through inadvertent social media quorums



## Make Sure You're Archiving

In all 50 states, social media is a public record. And your public entity is responsible for all of your public officials social media pages, and the records requests that come with them. But as social media happens in real-time, it can be impossible to keep up with. And the social networks aren't responsible to keep any of your data. So if you don't retain content (even if it was edited or deleted) you may lose it forever. That's why automatically archiving your content & meta-data for every post and comment on your page, and your constituent pages, across all your accounts, is essential to remaining compliant & risk-free.



What we've seen related to elections

# IN THE NEWS



## "Montgomery County Elected Official Sued for Social Media Snubs"

A lawsuit was filed against Montgomery County Commissioner Joe Gale, by several people & two companies who claim he blocked their accounts on Twitter & deleted their comments on Facebook, violating their First Amendment right to free speech. This happened after Gale posted a statement calling anti-police brutality and Black Lives Matter protests "urban domestic terror". Posts & comments made by Agencies and their officials, as well as replies to these posts and comments, are public record, and may be subject to public records laws.

NBCPhiladelphia.com, "*Montgomery County Elected Official Sued for Social Media Snubs*", July 1, 2020



## "Woman sues a Kansas city & mayor over deleted Facebook posts"

Tracy Chambless' sued Scott City and its mayor, accusing them of violating free-speech rights, stating they "engaged in viewpoint discrimination by removing public comments critical of the city and its agencies" from their Facebook page. The criticism was over their response to the coronavirus. The lawsuit seeks \$75k in damages and a court order to prohibit the mayor & city from removing or blocking comments on social media.

The Wichita Eagle, "*Woman sues a Kansas city and mayor over deleted Facebook posts on COVID-19 response*", May 25, 2020



## "Federal Lawsuits Filed Against Savannah Mayor Over Free Speech Violations"

A second federal lawsuit has been filed against Savannah Mayor Van Johnson alleging free speech concerns and the First Amendment for censoring a woman and more than 200 others on his official 'Mayor Van Johnson' communications pages where he conducts official city business. When Johnson refused to unblock these users, they went to court. There, the courts established that citizens have a First Amendment right to interact with government officials in a political forum. Public officials are held accountable the same way their agencies are.

AllOnGeorgia, "*Federal Lawsuits Filed Against Savannah Mayor Over Free Speech Violations*", July 24, 2020



## "Records request filed for superintendent blocking on Twitter"

Superintendent of Elmhurst School District 205, Dave Moyer, blocked users from his Twitter account, which is linked to the school district's website. A public records request was filed with the school district to get the list of Twitter users blocked from Moyer's account. School district social media posts & messages, as well as replies and comments to these posts, are public record and may be subject to public record laws, eDiscovery requests, 1st Amendment protections, and other related lawsuits.

Patch.com, "*Who Is D-205 Leader Blocking on Twitter?*", Aug 31, 2020





### Cases outlined by the Archive resource:

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### Other cases I found in my research:

#### **Davison v. Randall (4th Cir. 2019)**

Phyllis Randall, Chair of the Loudoun County, Virginia, Board of Supervisors (Loudoun Board), brings this appeal, arguing that the district court erred in concluding that she violated the First Amendment rights of one of her constituents, Brian Davison, when she banned Davison from the "Chair Phyllis J. Randall" Facebook page she administered. Davison, an outspoken resident of Loudoun County, apparently largely focuses his civic engagement and expression on "the funding and . . . management of public schools." The Chair of the Loudoun County Board of Supervisors engaged in unconstitutional viewpoint discrimination when she banned Davidson from her Facebook Page. *The interactive component of the chair's social media page constituted a public forum for First Amendment purposes, and the chair engaged in unconstitutional viewpoint discrimination when she banned the constituent from that forum.*



### **Garnier v. O'Connor-Ratcliff United States District Court for the Southern District of California**

Michelle O'Connor-Ratcliff and Thomas Joseph Zane are members of the Poway Unified School District (PUSD) Board of Trustees. Both Zane and O'Connor-Radcliff had private and personal facebook pages. They used the public facebook pages for campaigning and as a "bulletin" of information for the public. For several years both defendants would hide negative comments from their feed and even block commenters if they continued. *The court ruled that they violated the plaintiff's first amendment rights when they blocked specific members of the public from their pages after they had left negative comments.*

### **Knight First Amendment Inst. at Columbia Univ. v. Trump (2d Circuit. 2019)**

President Donald J. Trump appealed from a judgment of the United States District Court for the Southern District of New York concluding that he engaged in unconstitutional viewpoint discrimination by utilizing Twitter's "blocking" function to limit certain users' access to his social media account, which is otherwise open to the public at large, because he disagrees with their speech. The Court held that the entry of summary judgment in favor of plaintiffs was affirmed since the President of the United States engaged in unconstitutional conduct by utilizing a blocking function to limit certain users' access to his social media account, he violated the First Amendment by engaging in viewpoint discrimination, the account was not a private, personal account that was independent of the presidency, once the President chose the platform and opened up its interactive space to millions of users and participants, he could not selectively exclude those whose views he disagreed with, the President's use of the account during his presidency was not private, he was acting in his official capacity when he blocked users, since the account was intentionally opened for public discussion, it was a public forum, the retweets, replies, and likes of other users were not government speech. *The First Amendment does not permit a public official who utilizes a social media account for all manner of official purposes to exclude persons from an otherwise-open online dialogue because they expressed views with which the official disagrees.*

### **Attwood v. Clemons**

The district court did not err in rejecting the state official's claims of Eleventh Amendment immunity and absolute legislative immunity in plaintiff's action alleging that the official unconstitutionally blocked plaintiff from participating in public forum, the official's public Twitter and Facebook accounts, based on his views, *because the Eleventh Amendment provided no shield for a state official confronted by a claim that he had deprived another of a federal right under the color of state law, and because the official's alleged conduct with respect to his Twitter and Facebook accounts was not legislative in nature, he was not entitled to absolute legislative immunity.*