



PITTSFIELD CITY COUNCIL RULES AND ORDERS

(Last amended: June 14, 2016)

Rule 1. On the first Monday of January in the year succeeding each biennial municipal election, immediately after the oath has been administered to the Councilors-elect of the City Council in accordance with Section 10-9 of the City Charter, they shall be called to order by the City Clerk, or in the case of the absence of the City Clerk, by the senior Councilor present in terms of seniority on the Council. The City Council shall then proceed to elect one of its own number President in accordance with G.L. (Ter. Ed.) Chapter 39, Section 3. The City Clerk shall preside until a President has been elected but during such time no vote shall be taken other than for the election of a President or on a motion to adjourn or to recess. The City Council shall elect from among the qualified Councilors a Councilor to serve as Vice President. The City Council shall confirm this selection of a Vice President by a majority vote. The Vice-President's duties shall include serving as President in the absence of the President or in the event of the President's disability for a temporary period of time.

Rule 1A. In the absence of the President or in the event of the President's disability, the Vice President or in the case of the absence of the Vice President, the City Clerk, or in case of the absence of the City Clerk, the oldest Councilor in terms of seniority shall preside until a president pro tem has been elected but during such time no vote shall be taken except for the election of a president pro tem or on a motion to adjourn or to recess.

Rule 1B. Regular meetings of the Council shall be held at 7:00 p.m. in the evening on the second Tuesday of each month, and on the fourth Tuesday of each month except July, August, and December; provided, however, if the date of a regular meeting shall fall on a holiday, or a day observed as a holiday, such regular meeting shall be held on the following day.

Rule 1C. At the beginning of each regular or special meeting of the Council, or the City Council meeting as the Committee of the Whole, individual members of the public shall be permitted to address the Council. Unless specifically authorized by the City Council President, no member of the public shall speak for more than three (3) minutes during the public comment period. At a regular meeting, individuals shall be allowed to speak on any subject. At a special meeting, including the Committee of the Whole, individuals shall be allowed to speak on any subject listed on the agenda for the special or Committee of the Whole meeting. The City Council President shall have the authority to limit the time of any individual wishing to speak, and ensure that all appropriate rules are observed. No person shall address the City Council without permission of the City Council President, and all persons shall, at the request of the City Council President, be silent. No person shall disrupt the proceedings of the City Council. If, after clear warning from the City Council President, a person continues to disrupt the proceedings, the City Council President may order the person to withdraw from the meeting and if the person does not withdraw, the chair may authorize a constable or other officer to remove the person from the meeting. Speakers shall refrain from any personal attacks. Individuals wishing to speak must sign their name and address and subject on which they wish to address the Council on the sheet provided at the podium prior to the start of the meeting.

Rule 1D. At each standing committee of the City Council, with the exception of the Committee of the Whole which falls under Rule 1C, individual members of the public shall be permitted to address the Council on any subject listed on the standing committee agenda. The time allowed for speaking shall be at the discretion of the standing Committee Chairperson. No person shall address the standing subcommittee without permission of the Committee Chairperson and shall, at the request of the Committee Chairperson, be silent. No person shall disrupt the proceedings of the standing committee. If, after clear warning from the Committee Chairperson, a person continues to disrupt the proceedings, the Chairperson may order the person to withdraw from the meeting and if the person does not withdraw, the chair may authorize a constable or other officer to remove the person from the meeting. Speakers shall refrain from any personal attacks.

Rule 2. The President of the Council shall take the chair at the hour appointed, call the Councilors to order, and then call upon the Councilors present to observe one minute of silent prayer followed by the Pledge of Allegiance to our flag. Thereafter, if a quorum be present, the Council shall proceed with its business.

Rule 3. At every regular meeting of the City Council, the order of business shall be as follows:

1. Roll Call
2. Reading the records of the previous meeting, if requested by any Councilor
3. Appointments and elections
4. Communications from His/Her Honor the Mayor
5. Public Hearings
6. Communications and Reports from City Officers and Boards
7. Reports of Committees
8. Unfinished Business
9. New Business
10. Ordinances, motions, orders and resolutions, but an ordinance, motion, order or resolution submitted with or accompanying a matter given a prior position in the foregoing order of business shall be considered and acted upon in such prior position

The Council President shall prepare a written agenda for each meeting of the City Council. Such agenda shall follow the foregoing order of business, except that if the same or substantially the same questions, subject or matter is involved in several items falling within more than one such classification of business, the Clerk may group all of such related items on the agenda under the first order of business where such question, subject or matter is to be considered. The order of business as appearing on such agenda shall not be departed from over the objection of any Councilor without a vote of the majority of the Councilors present. Matters referred in advance of the meeting, under Rule 27, shall be separately listed on the agenda.

Rule 3A. All orders, resolutions, petitions, reports, communications, appointments and other matters coming before the Council shall be read aloud by the Clerk, unless the President, with the consent of the Council, shall direct otherwise. The failure of the Council to question the action of the President shall constitute consent without the necessity of any vote thereon.

Rule 4. The President may speak to points of order in preference to other Councilors and shall decide all questions of order, subject to appeal to the Council on motion of any matter. No other business shall be in order until the question on the appeal has been decided.

Rule 5. The President may call any Councilor to the chair, to preside during the meeting, and when out of the chair may participate in any debate, but shall not resume the chair while the same question is pending, provided the same is taken previous to adjournment.

Rule 6. The President shall put all questions in the order in which they are moved, unless the subsequent motion shall be previous in nature, except that in naming sums and fixing times, the largest sum and the longest time shall be put first.

Rule 7. The motion to adjourn, a referral to a committee of the City Council, the motion to lay on or take from the table, previous question shall be decided without debate. However, the motion to file shall be decided with debate.

Rule 8. After a motion is stated or read by the President, or by the Clerk at the request of the President, it shall be deemed to be in the possession of the Council and shall be disposed of by vote; but the mover may withdraw it at any time before a decision or amendment.

Rule 9. When a question is under debate, the chair shall receive no motion but

- (a) to adjourn;
- (b) to lay on the table;
- (c) to the previous question;
- (d) to commit or refer
- (e) to amend;
- (f) to postpone to a day certain;
- (g) to postpone indefinitely

which several motions shall have precedence in the order in which they stand arranged, and the first four shall be decided without debate. The President shall put the previous question in the following form: "Shall the main question be now put?" and all further amendments or debate of the main question shall be suspended until the previous question shall be decided.

Rule 10. All Committees shall be appointed and announced by the President, unless otherwise provided for or especially directed by the Council, and the first Councilor named upon any committee shall be the Chairperson thereof. The second name appearing will be the vice-chair thereof. All committee meetings shall be held at 7:00 p.m.

Rule 11. Every Councilor, except the President, when about to speak or to deliver any matter to the Council, shall respectfully address the presiding officer. Councilors shall confine themselves to the question under debate and avoid personalities.

Rule 12. No Councilor speaking shall be interrupted by another, except by rising to a point of order or for information.

Rule 13. No Councilor shall be permitted to vote on any question or serve on any committee where the Councilor's private interest is immediately concerned.

Rule 14. No Councilor shall speak more than twice on the same question, without leave of the Council, nor more than once until all other Councilors choosing to speak have spoken.

Rule 15. Every Councilor who is present when a question is put shall vote, unless excused by the Council or unless the Councilor's private interest is involved therein.

Rule 16. Every motion shall be reduced to writing if requested by the President. All orders, ordinances, and resolutions requiring the approval of the Mayor shall be presented in writing and signed by the person presenting them.

Rule 17. Roll call votes shall begin with the city councilor who has been assigned to make the motions for that meeting and shall then proceed in order. A request for a roll call vote can be made under the following circumstances:

- (a) when required by rule or ordinance
- (b) when requested by the President to determine the outcome of a vote
- (c) when requested by two or more councilors

Rule 18. When a vote requiring a simple majority is carried, it shall be in order for any Councilor voting with the majority to move reconsideration. When a vote requiring more than a simple majority fails of passage, it shall be in order for any Councilor voting with the prevailing side, even though that side is not in the majority, to move for reconsideration. A move for reconsideration may be made only at the same session as the vote to be reconsidered and when a motion for reconsideration is decided that vote shall not be reconsidered.

Rule 19. No motion or proposition on any subject different from that under consideration shall be admitted under guise of an amendment.

Rule 20. No motion need be seconded, except as may be herein required by rule or ordinance, and may be withdrawn by the mover, by unanimous consent.

Rule 21. A question containing two or more propositions, capable of division, shall be divided whenever any Councilor so requests.

Rule 22. The seats of the members of the Council shall be numbered and be determined by drawing the names of the Councilors and seats simultaneously, and no Councilor shall change their seat without permission of the President.

Rule 23. The Council shall not consider nor act upon any petition, communication, report or other matter at a regular meeting, except communications from the Mayor, or except as provided in Rule 23A, unless such petition, communication, report or other matter is filed in the office of the City Clerk not later than 2:00 o'clock p.m. on the Wednesday preceding the Tuesday of such regular meeting.

Rule 23A. A councilor will be allowed to introduce a petition, communication or report not on the agenda in accordance with Massachusetts General Laws c. 30A, §§ 18-25 with the consent of two-thirds of the Councilors present. The petitioning councilor will be required to give a brief explanation as to why this matter cannot wait until the next regularly scheduled meeting. Upon a two-thirds vote to consider, the matter can then be introduced by the City Clerk, moved by a councilor and considered by the council under its normal rules.

Rule 23B. Only one petition per request will be allowed under Rule 23A. Additional petitions will require the procedures outlined in 23A to be repeated.

Rule 24. No petition, communication, report, or other matter, except communications from the Mayor, shall be considered or acted upon at any special meeting, other than the petition, communication, report or matter as shall be set forth in the call for such special meeting, except by a unanimous consent of the Council present at such special meeting.

Rule 25. Any call for special meeting of the Council shall contain a brief summary or statement of the matter or matters to be considered or acted upon at such special meeting and the reason or reasons why such matters cannot wait for a regularly scheduled meeting.

Rule 26. The Vice-President's duties shall include serving as President in the absence of the President or in the event of the President's disability for a temporary period of time. The following standing committees shall be appointed by the President, namely:

- (1) Finance, consisting of five Councilors, who shall act upon such matters relating to the finances of the City, accounts, appropriations, and salaries, which may be referred to it, in addition may examine all bills against the City presented for payment, and that said Committee also serve as the "Ways and Means Committee" who shall determine where monies will come from before any approval of orders or appropriations for funds. In addition it shall review the yearly audit in an exit interview with the external auditor; review quarterly the resolution of any recommendations and/or reportable conditions noted in the management report; review quarterly the actual expenses and income versus budget; and act on all other matters referred to it by the City Council.
- (2) Public Works and Utilities, consisting of five Councilors, who shall act upon matters relating to streets, highways, sidewalks, sewers, water, fuel, street lights, bridges, culverts, paving, public property, electric wires and poles, which may be referred to it.
- (3) Public Safety and Health, consisting of five Councilors who shall act upon matters relating to the Fire Department, Police Department and Board of Health, which may be referred to it. In addition, it shall be the responsibility of the Public Safety and Health subcommittee, together with the Board of Health, and in collaboration with the Massachusetts Department of Environmental Protection, the Massachusetts Department of Public Health, and the United States Environmental Protection Agency, to conduct annual updates in September regarding the monitoring protocols, monitoring outcomes, and upcoming activity associated with OPCA 71 (a/k/a Building 71) and OPCA 78 (a/k/a Hill 78) which are located on property owned by General Electric and abutting Allendale Elementary School.
- (4) Committee on Ordinances and Rules, consisting of five Councilors, who shall act upon all rules, ordinances, resolutions, and enrolled ordinances, which may be referred to it. In addition, the Committee shall review any matters sent to them to determine if the jurisdiction and purview of the City Council make it appropriate to have the matter before them.

- (5) Public Buildings and Maintenance, consisting of five Councilors who shall act upon matters relating to all municipal public buildings and the maintenance of all public facilities, which may be referred to it.
- (6) Community and Economic Development, consisting of five Councilors, who shall act upon all matters relating to community and economic development which may be referred to it, and to include as its major responsibility job creation.
- (7) Committee of the Whole, consisting of the entire Council, who shall act on all matters referred to it. Committee of the Whole budget hearings can only be held during the evenings on Mondays through Thursdays. The initial budget meeting cannot be held sooner than seven (7) days after the City Council has been presented the budget by the Mayor.

Rule 27. The President may, with the consent of the Council, refer any order, ordinance, resolution, petition, report, communication, appointment, or other matter coming before the Council to the appropriate committee, or may, with such consent, order such other disposition to be made thereof as the President may deem necessary. Any matter or matters requiring action by the Council and not included in the specified duties of the several standing committees, may be referred by the President, with the consent of the Council, to any standing or special committee as the President may determine. The failure of the Council to question the action of the President shall constitute consent without the necessity of any vote thereon.

The disposition of routine petitions may be determined by the Council President before the printing of the agenda covering the Council meeting when such routine petitions would be presented. The petition, committee referred to, reports, etc. will appear as part of the Council agenda in accordance with Rule 3, as amended. Any or all of such petitions may be discussed by the Council; the failure of the Council to question the action or disposition of the President, however, shall constitute consent without the necessity of any vote.

The President may refer all petitions, communications, or reports relating to the following matters to the standing Committee on Finance:

- (1) authorization of debt over \$75,000.00;
- (2) issuance of bonds or notes over \$75,000.00;
- (3) acceptance of grants requiring a matching appropriation over \$75,000;
- (4) line item transfers over \$75,000.00;
- (5) application for tax increment financing; and,
- (6) financial transactions that require a Council vote and involve an appropriation over \$75,000.00.

All supporting materials with regard to the above listed petitions, communications, or reports shall be placed on file with the Clerk at the time of filing.

Rule 28. The Mayor shall have the right to attend all meetings of committees and shall be notified by the Committee Clerks of the time and place of such meetings. Committee Clerks shall submit a written report to the Mayor of any action taken by a committee no later than five business days after adjournment of the meeting at which the action was taken.

Rule 29. It shall be the duty of any standing committee or any special committee to whom any matters may be referred, to report thereon or before the second regular meeting of the Council from the time such matters have been referred to them, or ask for any further time in writing. All reports submitted to the Council by any committee shall be signed by the Chairperson of such committee, or by any member acting as such Chairperson at the time action by the committee is taken thereon.

Any standing committee shall meet to consider any matter referred to it by the City Council and may meet to consider any matter designated by its Chairperson.

The City Clerk shall report the status thereon on or before the fourth regular meeting of the Council from the time such matters have been referred to the Mayor, commission or entity that is not represented by a City Councilor.

It shall also be the duty of any standing committee or special committee to review and approve the minutes from its previous meeting prior to considering any new business that is before that committee.

Rule 30. When the Council shall have given leave to withdraw on any application for a license, permit, or request, or has refused to grant any license, permit or request, or when after a public hearing has been called, leave to withdraw has been given, whether at the request of the applicant or otherwise, any further application for a similar license, permit or request by anyone at the same location shall not be considered, referred, or acted upon, within the calendar year, unless a majority of the entire Council consents thereto.

Rule 31. The Chairperson of any committee, or in the absence or inability, the second Councilor named in such committee, shall call the meetings of such committee. Such committee shall keep a record of its proceedings, and if the clerk be absent, the committee shall elect one of its Councilors to act as such.

Rule 32. No committee shall sit during any session of the Council, without the permission of the President.

Rule 32A. Orders properly before the Council for consideration under Rule 23, 24, 25, or otherwise, shall require only one reading for final enactment.

Rule 33. Charter Objection - On the first occasion that the question on adoption of a measure is put to the city council, if a single Councilor present objects to the taking of the vote, the vote shall be postponed until the next meeting of the city council, whether regular or special. If 2 Councilors present object, such postponement shall be until the next regular meeting. If it is an emergency measure at least 4 Councilors must object. This procedure shall not be used more than once for any specific matter notwithstanding an amendment to the original matter. A charter objection shall have privilege over all motions but must be raised prior to or at the call for a vote by the presiding officer and all debate shall cease.

Rule 34. No new ordinance, or amendment or amendments of existing ordinance or ordinances, shall be considered by the Council until it shall have been first referred to the Committee on Ordinances and Rules. The draft of every new ordinance or amendment or amendments to any existing ordinance or ordinances, reported to the Council by the Committee on Ordinances and Rules, by either a majority or minority report, shall first be submitted by the Committee to the City Solicitor for examination and approval as to form. The City Solicitor shall forthwith examine the same, and if said Solicitor disapproves the form thereof, shall signify

disapproval thereon, with reasons therefore, and return the same to the Committee; and if the City Solicitor approves of the form thereof, shall signify approval thereon and transmit the same to the City Clerk, who shall cause the same to be placed upon the agenda for the next meeting of the City Council.

Rule 35. Except as provided in Rule 23, no standing order or rule of the Council shall be suspended unless a majority of the entire Council shall consent thereto, nor shall any rule or order be repealed, altered, or amended without at least one day's notice in writing being given of the motion therefor, nor unless at least a majority of the entire Council shall consent thereto.

Rule 36. Demeter's Manual of Parliamentary Law and Procedure shall be the authority adopted by the Council on all points, questions of debate, and parliamentary practice, when the same does not conflict with the rules and orders of the Council.

Rule 37. These rules shall continue in full force and effect until they are revoked, superseded, or amended, notwithstanding any intervening election, and notwithstanding the taking of office by any new member of the City Council.

Rule 38. Economic Development Fund Eligibility Guidelines

I. The City Council will evaluate projects based on each of the following criteria:

Jobs to be created and/or maintained:

- Quality of jobs, including pay scale and how supportive they are of growing sectors of the economy which have been targeted for growth for plans and studies
- Quantity of jobs
- Duration of the jobs
- How well the jobs created match the skills of the labor force in the state designated Economic Target Area

The following general standard will be used: One (1) full-time equivalent job per \$35,000 granted. Exceptions to this guideline may be allowed if there is:

- (1) A significant investment being made by the project proponent, as defined below, and/or
- (2) An exceptionally large number of jobs created, and/or
- (3) An overriding public benefit resulting from the project

Investment by the project proponent:

- Amount of and source(s) of investment;
- The strategic importance of the investment as it relates to other economic development goals

Leveraging potential of the project:

- Investment by other businesses that may occur as a result of the project.

Public benefit resulting from the project

Current status of taxes, licenses and fees due the city:

- The degree to which project proponents may be delinquent in payments to the City for any taxes, licenses or fees.

II. The project approval process includes the following steps:

- All funding requests will be referred to the Council's Committee on Community and Economic Development for review;
- Upon review by the Committee, recommendations will be made to the full Council for its approval

III. All requests for funding submitted to the Council by the Mayor shall include the following information:

- A detailed description of the business/organization requesting the funds
- A detailed business plan outlining the proposed use for the funds being requested
- All relevant financial information that supports both the request for the funds and demonstrates the financial ability of the applicant to undertake the proposed project
- A narrative drafted by the Director of Community Development as to the project's public benefit, its relationship to the City's overall economic/community development goals and objectives, and the manner in which it meets all other eligibility criteria set forth in this Rule. The Director's narrative shall also include a proposed disbursement schedule for the funds and a description of the manner in which the Department will monitor the use of the funds
- A detailed and itemized breakdown by the business/organization of projected property tax revenues, water and sewer fees and any other revenues to the City that could be foreseen for the next five years

IV. Approval by the Council will require a two-thirds vote of those present and eligible.

Eligible shall be defined as the current total number of elected City Councilors minus any Councilors who have a legally recognized conflict as defined by the current Massachusetts General Law and as determined by the State Ethics Commission. A mere absence by a City Councilor does not lower the 2/3 requirement.

Rule 39: Project Review Fees

I. Introduction - In accordance with M.G.L. Chapter 44, Section 53G (Employment of Outside Consultants), the City Council may authorize the Department of Community Development to establish escrow accounts and impose Project Review fees for those applications which require the services of outside consultants for the review process due to: the size, complexity, or scale of a proposed project; the need for additional expertise in the review;

or because of the potential impacts of a project. The City Council may require the expertise of attorneys, engineers, planners, landscape architects, architects or other appropriate professionals who can assist the Council in analyzing a project to ensure compliance with all state laws and City of Pittsfield Codes. If the City Council elects to engage a consultant to assist with plan reviews, the Department of Community Development shall notify the applicant within 30 days of the filing of the application of its designation of an outside consultant.

Upon authorization by the City Council to retain a consultant, the Director of the Department of Community Development, or his/her agent, may seek price quotes from consultants, execute a contract with the consultant, coordinate the project review, and authorize payments to the consultant.

II. Project Review Fee Payment - The City Council shall authorize the Department of Community Development to determine the amount of the initial deposit to be made and the amount of any additional funds that may be required during the review process. The applicant shall pay such Project Review Fee to the City of Pittsfield and such Project Review Fee shall be deposited in a special account with the City before project review is initiated with the consultant.

III. Expenditure of Project Review Fees - Project review fees may only be spent on services rendered in connection with the specific project for which they were collected. Accrued interest may also be spent for this purpose.

IV. Excess Project Review Fees - After completion of the City Council's review of a project, any unspent Project Review Fee amount, including interest if accrued, shall be refunded to the applicant or the applicant's successor in interest and a final report of said account shall be made available to the applicant or applicant's successor in interest.

V. Failure to Pay Project Review Fee - Failure to pay a Review Fee by the applicant shall be grounds for disapproval of the subject application.

VI. Administrative Appeals

a. The applicant may appeal the selection of the outside consultant to the City Council within 14 days of notification of consultant designation from the Department of Community Development. The grounds for such an appeal shall be limited to claims that:

1. The consultant selected has a conflict of interest
2. The consultant does not possess the minimum required qualifications. The minimum qualifications shall consist of either an educational degree in or related to the field at issue or three years or more years of practice in the field at issue or a related field.

b. Constructive Denial of Appeal - The required time limits for action upon an application by the City Council shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Council within one month following the filing of the administrative appeal, the appeal shall be deemed constructively denied.

Rule 40. The city council shall annually provide for an outside audit of the books and accounts of the city to be conducted by a certified public accountant or a firm of certified public accountants, which has no personal interest, direct or indirect, in the fiscal affairs of the city or any of its officers. The mayor shall annually provide to the city council a sum of money sufficient to satisfy the estimated cost of conducting the audit as presented to the mayor, in writing, by the city council. The award of a contract to audit shall be made by the city council on or before September 15 of each year. The report of the audit shall be filed in final form with the city council not later than March 1 in the year following its award. At least every 5 years, the city council shall conduct a competitive procurement process to retain these auditing services.