

RESOLUTION NO. 2593

A Resolution of the City Commission of the City of Warrenton, Oregon, Adopting Commission Rules;

Repealing any other Resolutions in Conflict

Whereas, the City of Warrenton, Oregon, (hereinafter the "City") is committed to the principles of good governance; and

Whereas, the City recognizes the value of adopting rules to provide ethical guidance to public servants in the course of their duties as Commissioners, which is reflective of the values of the City;


NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WARRENTON:

Section 1. The Warrenton City Commission Rules, 2nd Edition, is hereby adopted as it is presented in Exhibit A and as may be revised and amended by the City Commission from time to time in the future.

Section 2. Any Resolution in Conflict with the rules as prescribed in Exhibit A to this resolution are hereby repealed.

Section 3. This Resolution is effective immediately upon its passage.

Adopted by the Warrenton City Commission this 9th day of March 2021.


Henry A. Balensifer, III
Mayor

ATTEST:



Dawne Shaw, CMC
City Recorder

Exhibit A



Warrenton City Commission Rules

2nd Edition

Adopted March 9, 2021

Resolution 2593

Chapter 1 – Eligibility for Elected Office:

- A. No Person shall be eligible for an elective office of the city unless at the time of nomination and election they are a qualified elector as defined by Article II, Section 2 of the Oregon Constitution. As such, a qualified elector by state law must include but is not limited to being:
 - 1. 18 years of age or older.¹
- B. Commissioners shall attend Commissioner orientation within 3 months of election or appointment of office.
- C. Commissioners should attend the League of Oregon Cities elected basics training as well before taking office if possible.

¹ Oregon Constitution Article II § 2 (a)

Chapter 2 – Discipline & Vacancies in Office

A. Supremacy of the City Charter

1. The City Charter is the supreme law of the city, but does not invalidate and is subservient to Federal and State law.

B. Disqualifying Offenses

1. The City Charter provides both a floor and a ceiling for the removal of elected officials, of which modification requires a charter amendment.
2. Offenses which will disqualify an incumbent or otherwise render their office forfeit are:
 - a. The incumbent's death²
 - b. Adjudicated incompetence
 - c. Conviction of a felony while in office or other offense pertaining to their office
 - d. Unlawful destruction of public records
 - e. Resignation
 - f. Recall from office
 - g. Ceasing to possess the qualifications for the office
 - h. The failure of the person elected or appointed to the office to qualify for elected office within 10 days after being sworn in; or
 - i. Upon absence from meetings of the commission for 60 days without the consent of the commission
 - j. Directly or indirectly, by suggestion or otherwise, attempting to exact any promise relative to any appointment from any candidate for City Manager.³
 - k. Except while in a commission meeting open to the public:
 - i. Directly or indirectly, by suggestion or otherwise, attempt to influence in any way the City Manager in the making of any appointment or removal of any officer or employee or in the purchase of supplies
 - ii. Discuss directly or indirectly with the City Manager the matter of specific appointments to any city office or employment

C. Enactment of Removal

1. Enactment of disqualification/forfeiture and removal from office shall occur only after the Commission has voted to declare the commission position vacant.
 - a. E.g. A commissioner can move away and resign, but their position is not vacant until such time as the commission votes to declare the position vacant.

D. Discipline

1. Discipline for the purposes of these rules is defined as action taken by the City Commission to hold its own members accountable for actions that violate these rules, harm public trust

² Items A – I; Warrenton City Charter Chapter VII § 31

³ Items J – K; Warrenton City Charter Chapter V § 20 (f)

or the integrity of the commission, or otherwise are punishable by the City Charter or these rules but do not rise to the level of disqualifying or forfeiting a commission member's elected office as described in Section B.

2. The Commission retains the right to discipline its members for infractions of these rules outside of removal as enabled by the charter.
3. Discipline must be done in a public meeting of the City Commission in accordance with Oregon Public Meetings law and notice requirements.
4. Examples of discipline include but are not limited to:
 - a. Written reprimand
 - b. Formal censure
 - c. Vote of no confidence
 - d. Other disciplinary action as found legal and fitting by the City Commission with the concurrence of the City Attorney
5. Prior to taking any disciplinary action, the commission must plainly state its concerns in writing or in a public meeting.
 - a. Any commissioner subject to discipline may be afforded a reasonable opportunity to respond to accusations or concerns for the record.
 - b. The commission may investigate the actions of any commissioner.

E. Warnings

1. The Mayor, City Manager or City Recorder are enabled, under these rules, to issue warnings for violations or actions that warrant warning of borderline /potential violation of these rules verbally or in writing. Warnings should not be issued except as to provide advance notice to the offending member that their behavior or actions are on notice as of concern.
2. The Mayor, City Manager, or City Recorder shall, if issued in writing, provide a copy of the warning to the City Attorney. If a staff issued verbal warning, the Mayor should be notified. If the Mayor was subject to the warning, the Mayor Pro-tem should be notified. Warnings are not required to be disclosed during a meeting, nor discussed.
3. A warning is considered an informal way to draw attention to a growing concern in behavior, breach of charter, or these rules.

Chapter 3 – Commission Roles

A. Commissioners

4. Individual members of the City Commission have no authority to act or represent the City Commission except as authorized by Commission direction, ordinance, resolution, tasking statement, or appointment.
 - a. Individual Commissioners are entitled to express their own opinions separate from or in opposition to the positions of the city provided they ensure it is noted as their own and not the position of the City.
5. Commissioners may not interfere with day-to-day administration or operations.
 - b. This does not prohibit the Commission, as a body, from passing resolutions, reviewing the performance of the City Manager, funding special investigations, approve appointments of city officers, conduct public hearings, pass budgets, or conduct legislative audits.

B. Mayor

1. The mayor is the ceremonial head of the city and is the presiding officer of all City Commission meetings. The mayor is directly elected to provide citizens a direct say in who should be the face and voice of their government and shall be the primary representative of the city in all political matters unless such role is delegated.
2. The mayor has no individual powers outside of those granted by the City Charter, ordinance or other means of delegation by the Commission such as these rules. Those powers are generally construed to include:
 - a. Nominating persons to city boards for appointment by the Commission.
 - b. Appointing Task Forces or convening committees
 - c. Calling special or emergency meetings.
 - d. Declaring emergencies when public meetings law or absences prevent a quorum of Commissioners from convening in time to do so; or as the Commission allows through an adopted Emergency Operations Plan.
 - e. Serving as the presiding officer of the City Commission.⁴
 - i. Convening and adjourning commission meetings.
 - ii. Enforcing the Commission's rules and procedures.
 - iii. Issuing the City Commission's orders to its boards in writing.
 - f. Representing the City at official events.
 - g. Any other power granted to the Mayor by Commission delegation, law, rule, or vote.
3. The mayor has obligations other members do not. These include:
 - a. Signing all ordinances, resolutions, agreements, contracts, and records approved by the Commission regardless of the mayor's position or vote on the aforementioned.⁵

⁴ Warrenton City Charter Chapter IV, §17

⁵ Warrenton City Charter Chapter V, §19

- i. The Mayor must sign all items approved by the City Commission unless they are absent, or if they are the subject of a disciplinary resolution or official action.
 - 1. In this case the Mayor Pro Tem or whomever was the presiding officer of the hearing shall sign the items.
- b. Representing the City Commission's positions to federal, state, regional and local entities.
- c. Being the "go-to" person responsible for making speeches or providing a presence on behalf of the city at official and non-city events across the city, and at regional, state, and federal events.
 - i. This does not prevent other commissioners from speaking at events or providing a presence. However, commissioners do not have this obligation to the degree the Mayor does.

C. Line of Succession

The Mayor shall, after the annual appointment of the Mayor Pro Tem, submit a memorandum to the Commission and staff outlining the line of succession in the event the Mayor and Mayor Pro Tem are incapacitated, traveling or otherwise unable to discharge the duties of the presiding officer. This should consist of a list of the remaining commissioners by seniority. If more than one commissioner is equal in seniority, the Mayor shall designate the succession as they see fit and as commissioners are willing. However, if one or more commissioner wishes a certain place in succession, they may decide between each other or draw lots for their position(s) in succession. The memo shall be revised according to the results of such contest.

D. Staff

Commissioners shall endeavor to remember that they act as the legislative body of the City—not as the executive. The City Commission may enact policy but are not responsible for executing it, unless there is a legal and specific reason stipulating as such. They shall make all efforts to refrain from disrupting staff during day-to-day operations outside of what the City Manager allows. This does not prevent commissioners from requesting appointments or approaching staff in the course of acting as private citizens, at which they are entitled to the same level of access and attention as a private citizen.

Illustrating the Separation of Powers

The City Commission is like Congress. The Mayor like the speaker of the house. The City Manager like the president. The City Commission is the final say in development and passing policy and legislation, the Mayor presides over commission development of policy and legislation, and the City Manager manages the entirety of staff executing policy and has the majority of administrative decision authority.

Chapter 4 – General Commission Rules

A. Authorization, Amendment, and Waiver

These rules are authorized by the City Charter. The Commission should review these rules periodically. Amendments shall be adopted by resolution. The Commission rules are not intended to replace or supersede any applicable federal or state laws or regulations or provision of the City Charter.

The Commission may by majority vote in a public meeting waive any commission rule not already subject to restrictions below or as required by law.

1. The only rules that can not be suspended are those in contravention to City Charter provisions.

B. Attendance and Presence in the City

Commissioners must be present and attend meetings regularly for city government to function properly.

1. Commissioners will inform the Mayor and/or City Manager if they will be unable to attend any meetings in person.
 - a. If possible, the commissioner may attend remotely.
2. If the Mayor will be absent, the Mayor will inform the City Manager and the next in the line of succession who shall preside over the meetings.
3. Unexcused absences shall be determined by the Mayor or presiding commissioner during that meeting.
4. Commissioners with chronic unexcused absences may be censured by the City Commission.
5. The City Commission retains the right to compel the attendance of absent members when a quorum is lacking.⁶

C. Commissioner Rights as Private Individuals

Warrenton retains the use of volunteer elected officials whose first amendment rights shall not be infringed. Commissioners are allowed to speak to persons in their private capacity about anything provided they do not release or provide confidential information that violates the law. It is recognized Commissioners may advocate, confide, or counsel friends or family in their capacity as private citizens or professionals. Any rule that steps on those rights is considered best practices and advisory only.

D. Commission – Staff Relations

⁶ Warrenton City Charter Chapter IV § 14

All Commissioners shall recognize that by virtue of their position as elected officials their presence and words carry weight regardless in what capacity they represent themselves. In order to respect the separation between the Commission's role as a policy board and the City Manager's responsibilities for the execution of those policies and management of staff, Commissioners shall:

- 1) Not interfere with the day-to-day administration of city business, which is the responsibility of the City Manager.
- 2) Work together as a team within a spirit of mutual confidence, and support.
- 3) Respect the administrative functions of the City Manager and department heads and refraining from actions that would undermine the authority of the City Manager or department heads. The Commission shall abide by the City Charter in its dealings with the City Manager and staff.
- 4) Limit individual inquiries and requests for information from staff or department heads to those questions that may be answered readily as part of staff's day-to-day responsibilities. Questions of a more complex nature will be directed to the City Manager. Questions from individual Commissioners requiring significant staff time or resources (two hours or more) should normally require the consensus of the Commission to explore, although the City Manager may determine to follow up on requests from individual Commissioners independently. Any information obtained from staff should be shared with the entire Commission. The aforementioned is not intended to apply to questions by Commissioners acting in their private/professional capacity rather than as members of the City Commission. Commissioners will be treated as members of the public when acting in their private/professional capacities.
- 5) Limit individual contacts with city officers and employees in a way so as to not interfere with staff work performance or undermine the authority of the City Manager, department heads and other managerial and supervisory employees.
- 6) Respect staff and their roles and responsibilities, even if expressing criticism of an action.
- 7) Comments and concerns about staff performance should first be made to the City Manager.
- 8) Commissioners should exercise caution when approached by persons familiar to them who may have been separated from the city. This is to protect the city from persons who wish to gather information relative to a tort or workplace claim against the city.
- 9) Nothing in this section precludes Commissioners from obtaining information and asking questions during Commission meetings or from evaluating the performance of the City Manager.
- 10) Nothing in this section precludes Commissioners from engaging with staff in their private capacity to accomplish their day-to-day employment responsibilities. In such instances, Commissioners will be treated as any other member of the public.

E. Conferences and Seminars

Commission members are urged to educate themselves about local government. To that end, and as funding allows, Commissioners are urged to attend League of Oregon Cities trainings at city expense. Requests to attend other government related conferences, training seminars and meetings at city expense will be presented to the Commission for approval.

1. Commissioners shall not be reimbursed for any travel expenses incurred within Clatsop County.
2. Commissioners paying their own way do not need commission approval to attend conferences or trainings.
3. Commissioners who serve on committees or the boards of the League of Oregon Cities or Oregon Mayors Association or other similar associations of local governments may be reimbursed for reasonable expenses not covered by the respective body. Commissioners attending meetings outside of Clatsop County at the directive of or as an appointed representative of the City Commission do not need to seek permission for reimbursement of travel costs at GSA rates for the dates of travel and event only. Commissioners shall at all times conduct themselves so as to be a credit to the City and its people.

F. Breach of Confidentiality

A breach of confidentiality is a serious offense which threatens the public treasury, trust between commissioners, trust between the commission and staff, and is an overall violation of the duties to which commissioners are sworn.

1. The Commissioners are responsible for confidentiality over and above what state law requires.
2. Breaching confidentiality which creates a harm to the city is not covered by tort liability coverage granted to commissioners in the regular course and scope of their duties as elected officials.

G. Threats of Legal Action

It is recognized that we live in an exceedingly litigious society. Being a public entity means that individuals may target the city for, or threaten with, legal action in order to redress a grievance, obtain a benefit or preferential treatment, or in many cases—to get their way. Sometimes legal action is also unavoidable. All commissioners have first and foremost a fiduciary duty to the public before any individual claimant(s). Additionally, Individuals may reach out to commissioners individually, send correspondence, or state in a public meeting a threat, or allude to a likelihood of filing a claim against the city. Commissioners, acting in their capacity as elected officials should observe the following procedure if someone makes a credible threat of legal action:

1. Cease and not discuss any matters subject to or likely to be party to a legal claim.
2. Not assume that they are the only commissioner or appointee being approached about this issue.
3. Warn the individual(s) that any suggestion of legal action is grounds for terminating the topic of conversation until legal action is disposed of, or threats are ceased. Until that time, all correspondence or discussion should be between the City Attorney or staff and the individual(s) related the threat.
 - a. This is to ensure a single point of contact and negotiation.

Commission members shall conduct themselves so as to bring credit upon the government of the city by respecting the rule of law, ensuring non-discriminatory delivery of public services, keeping informed concerning the matters coming before the Commission and abiding by all decisions of the Commission, whether or not the member voted on the prevailing side.

1. Commissioners will assist the Mayor in preserving order and decorum during meetings, and may not, by conversation or any other action, delay or interrupt the proceedings or refuse to obey the rulings of the Mayor or commission rules.
2. Commissioners will not interrupt, by means of speaking or actions, another commissioner member who has the floor except as parliamentary procedure allows.
3. Commission discussions should focus on city issues and not issues outside of the realm of influence or decision by the city.
4. Commissioners shall not engage in personal attacks
 - a. Personal attacks are defined as attacks that impugn the character of, cast aspersions on, or otherwise are malicious attacks on an individual's character.
 - i. Official evaluation of performance or actions likely to result in a cancellation of contract or disciplinary action is not considered "personal" in nature provided the discussion revolves around facts or actions that are material to the evaluated issue.
5. Commissioners shall come to meetings prepared. Gather necessary information, research issues, and ask questions before each meeting as best as possible.
6. Commissioners shall speak only for themselves, and not for other council members.
7. Commissioners shall refrain from personalizing issues, and keep discussions issue oriented.

L. Legal Advice

1. Requests to the City Attorney for advice requiring extensive legal research and/or cost shall not be made by an individual Commission member except with the concurrence of the majority of the Commission.
2. The Mayor may independently request extensive legal research to meet an impending or immediate emergency or crisis provided the Mayor promptly include the City Manager.
 - a. Any legal queries and correspondence to the City Attorney by the Mayor shall copy or be shared with the City Manager unless the correspondence is regarding the City Manager.
 - b. Impending and Immediate is defined as when a localized, clear and present danger is known or extremely likely to be occurring.
 - a. Clear and present dangers can be construed to include, but are not limited to:
 - i. Weather or natural events forecasted to occur that may require an emergency declaration.
 - ii. A major influx in non-residents that have a high likelihood of causing major disruption to the city's health, welfare or safety.
 - iii. Warnings of civil unrest to occur in the city from credible intelligence sources such as but not limited to: the Oregon State Police, Dept. of Homeland Security, or FBI.

- b. Clear and present dangers for the purposes of this section may not be construed to include chronic, nebulous or indeterminate circumstances. E.g. Climate change
- 2. Individual commissioners wishing to propose an ordinance or resolution that requires a legal opinion shall make a request for vetting through the Mayor or City Manager.
 - a. In both cases the City Manager shall determine if such a policy is capable of being drafted from existing staff resources or if legal counsel is required to draft.

M. Appointed Boards

The City Commission has several boards, commissions, and committees comprised of appointed persons that advise the City Commission on specific issues, or serve a statutory role. Per the Warrenton City Charter, “the Mayor shall appoint the committees provided by the rules of the commission.”⁷ The powers and process for appointing persons to these entities is set forth as follows:

- 1. Types
 - a. There are three types of boards: required, advisory, and task forces.
 - i. Required boards are any board required by federal, state, or city statute. They are permanent in function and exist by city ordinance.
 - 1. E.g. Budget Committee and Planning Commission
 - ii. Advisory boards are any board created by the City Commission to advise the City on policy and the operations and sustainability of city assets or departments. These boards are considered “standing” and exist by resolution.
 - iii. Task forces are any group convened to review a specific issue and develop recommended plans, policies or specific actions to address them. These groups are considered temporary only and exist by Tasking Order.
- 2. Powers
 - a. Unless the appointed board serves a legal requirement such as the budget committee or planning commission, all boards shall be advisory only.
 - i. Required boards have the rights and powers afforded them through their legal authority and any other delegated authority . These boards shall always have staff support to ensure they meet their legal requirements.
 - ii. Advisory boards are either standing committees of the city or temporary committees to investigate, create, vet, and propose policies, programs or projects that advise the commission and staff on issues within the city pertaining to their mandate.
 - iii. Task forces are temporary boards created by the Mayor or Commission and shall meet within a finite period to create findings and provide recommendations to the Commission or Mayor on a specific issue or topic.
 - b. The Mayor shall have the sole authority to nominate persons for appointment to boards, commissions, committees, and task forces.⁸

⁷ Warrenton City Charter Chapter V § 19

⁸ Warrenton City Charter Chapter V § 19

- c. Unless officially delegated, the commission shall have the sole authority to confirm and appoint persons for appointment to boards, commissions, and committees.
 - i. If a task force is convened by the Mayor, the Mayor may directly appoint.
 - ii. If a task force is convened by the City Commission, the standard process applies.
 - d. The City Manager retains the right to determine the level of staff support these standing or temporary bodies receive..
- 3. Process
 - a. Persons recruited for or independently seeking positions on a board, commission, or committee shall completely fill out a form developed by the City Recorder.
 - b. The Mayor shall interview individuals for nomination, and upon selecting which person should be appointed, shall file a letter with the City Commission nominating them for a specific position. The letter shall include the name, position, and rationale for appointing them.
 - i. To reduce paperwork, the Mayor is encouraged to submit nomination letters by committee when multiple nominees are being put forth.
- 4. Other Stipulations
 - a. Applicants may not be appointed by the Commission directly unless the Mayor waives the right to nominate or an applicant for a board is a relative of the Mayor.
 - b. The Mayor must disclose to the commission at the meeting for which appointment(s) are considered, the names of applicants not selected.
 - i. This list will be confirmed by the City Recorder before being provided in the meeting packet or in print before the meeting.
 - c. The Mayor may not make temporary appointments if the commission refuses to confirm nominees for positions unless allowed by commission consensus.
- 5. Relatives, superiors or employees for boards and commissions.
 - a. If a relative, boss, or employee of a Commissioner meets eligibility requirements and applies to serve on a board, that citizen is entitled to participate in their government.
 - b. The Mayor, being the sole member to nominate appointees, may not nominate a relative as defined by state ethics laws, nor a superior or employee—however in the same spirit as in paragraph (a) above, the Mayor may forward the person’s application and any others who applied for nomination that are not already being nominated for positions on that board. In such cases, the Commission shall consider all such persons as nominees for that board and appoint whichever nominee to that specific board position.
- 6. Removal of appointees
 - a. The Mayor may remove appointees from boards for lack of attendance.
 - i. The Mayor must make the commission aware of any removals for cause before or during the next commission meeting.

N. Liaison to Boards, Commissions, and Committees

City Appointed/Controlled Boards

1. The Mayor may appoint Commissioners to act as liaison to citizen boards, commissions, committees, or other bodies that directly advise the City Commission. Commissioners shall submit reports verbally or in writing regarding the activities and actions of the entities to which the Commissioner is liaison to. If a commissioner is failing to meet attendance obligations, or will be missing from a substantial amount of meetings, they shall inform the Mayor who may appoint another Commissioner to sit on that board until the absent member is able to fulfill their duties or is replaced. When attending a meeting of a City board, commission, or committee as liaison, Commission members will:
 - a. Respect entirely the authority of the chairperson.
 - b. Not attempt to influence the entity on any item under its consideration, unless delivering a message or directive from the Commission. It is important for the advisory body to make objective recommendations to the Commission on items before them.
 - c. Nothing in this section precludes City Commissioners from explaining what the City Commission expects from the entity or explain Commission policies or goals to which boards are held to.
 - d. Not vote at the body's meeting on any item.
 - e. The Mayor has the right to remove Commissioners from official liaison positions for violations of the aforementioned.
 - f. These aforementioned rules apply solely to city controlled/appointed boards.

Non-City Appointed/Controlled Boards

1. The Mayor or Commission may appoint commissioners to intergovernmental boards to represent the city's interests. In these appointments members are allowed to vote and make representations for the city provided they are in line with the city's official positions. These commissioners are required to report back the decisions of the boards pertinent to or affecting the City's interests.
 - a. The Mayor may fill in, at any time, for a commissioner provided they give warning of their attendance or are asked to.