

**City of Truth or Consequences
Commission RULES OF PROCEDURE**



**ADOPTED OCTOBER 24, 1994 – RESOLUTION NO. 10-94/95
AMENDED MAY 9, 2006 – RESOLUTION NO. 24-06/07
AMENDED JANUARY 26, 2010 – RESOLUTION NO. 19-09/10
AMENDED MAY 8, 2012 – RESOLUTION NO. 33-11/12
AMENDED SEPTEMBER 25, 2012 – RESOLUTION NO. 14-12/13
AMENDED MARCH 22, 2016
AMENDED APRIL 25, 2017**

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Amended 03/14/2018

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SECTION 1 – GENERAL PROVISIONS

RULE 1. COMMISSION MEETING – LOCATION

All regular, special, and emergency meetings of the City Commission shall be held at the City Commission Chambers, 405 West 3rd Street as specified in the Open Meetings Resolution. [Resolution No. 2-94/95] [Amended – Resolution No. 24-05/06]

RULE 2. COMMISSION MEETING – TIME

The regular meetings of the City Commission shall be held Pursuant to the Open Meetings Act Resolution adopted annually. [Resolution No. 2-94/95] [Amended – Resolution No. 24-05/06] [Amended – Resolution No. 28 15/16]

RULE 3. COMMISSION MEETINGS – OPEN TO THE PUBLIC

All meetings of the City Commission and of committees thereof held for the purpose of formulating public policy or for the purpose of taking any action within the authority of or the delegated authority are declared to be public meetings open to the public at all times, except as otherwise provided for in the state constitution or the Open Meetings Act (§10-15-1 et seq. NMSA 1978).

RULE 4. ELECTION OF OFFICERS

Procedures for electing officers are as follows:

- (a) At the first organizational meeting of the new City Commission, the members thereof select one of its members to act as Mayor for two years. The Mayor has all the powers and duties of a Commissioner as well as the right to vote on all matters that come before the City Commission. (§3-14-10 NMSA 1978).
- (b) In conjunction with the above election, a Mayor Pro Tempore shall also be elected in a like manner.
- (c) The above elections shall be by affirmative motion.

RULE 5. PRESIDING OFFICER

The Mayor shall preside at all meetings of the City Commission, and be recognized as the official head of the City for all ceremonial purposes, civil process and for military purposes (§3-14-10 NMSA 1978). The Mayor has no regular administrative or executive duties. In case of the Mayor’s absence or temporary disability, the Mayor Pro Tempore shall act as Mayor during the continuance of the absence. In case of the absence or

CITY OF TRUTH OR CONSEQUENCES COMMISSION RULES OF PROCEDURE

temporary disability of the Mayor and the Mayor Pro Tempore, a Mayor Pro Tempore selected by members of the City Commission shall act as Mayor during the continuance of the absences or disabilities. The Mayor or Mayor Pro Tempore are referred to as "Presiding Officer" from time to time in these Rules of Procedures.

RULE 6. QUORUM

A quorum is necessary for the governing body to conduct business at any meeting. A quorum is a simple majority of all the commissioners including the Mayor. A majority vote of all the members of the City Commission is required to adopt an ordinance or resolution and certain other actions as required by law or ordinance. (§3-17-3 NMSA 1978). The City Commission may adjourn from time to time, provided that written notice of said adjournment be posted on the exterior Chamber door and at the City Clerk's office. City Commission meetings adjourned under the previous provision shall be considered a regular meeting for all purposes.

RULE 7. ATTENDANCE, EXCUSED ABSENCES

Members of the City Commission may be excused from attendance from a meeting by complying with this section. The member shall contact the City Manager or City Clerk prior to the meeting and state the reason for his/her inability to attend the meeting who shall convey the message to the Presiding Officer. The Presiding Officer shall inform the City Commission of the member's absence and excuse the member's absence. The Clerk will make an appropriate notation in the minutes.

RULE 8. SPECIAL AND EMERGENCY COMMISSION MEETINGS

Procedures for setting a special meeting are as follows:

- (a) A special meeting may be called only by a majority of the members of the City Commission.
- (b) Notice of the special meeting shall be given with no less than seventy-two hours' notice before such meeting. The notice shall specify the business to be conducted and shall be broadcast over the radio, or in the alternative, be posted as set forth in the Open Meetings Resolution.

Procedures for setting an emergency meeting are as follows:

- (a) An emergency meeting may be called only under circumstances that, if not addressed immediately by the City Commission, will likely result in injury or damage to persons or property or substantial financial loss to the City.

CITY OF TRUTH OR CONSEQUENCES COMMISSION RULES OF PROCEDURE

- (b) Emergency meetings may be called by the Mayor or a majority of the City Commission by giving whatever notice is possible and reasonable under the circumstances.

RULE 9. COMMISSION MEETING AGENDA

The City Clerk, under the direction of the City Manager, shall arrange a list of such matters according to the order of business and prepare an agenda for the City Commission. A copy of the agenda and supporting materials shall be prepared for the City Commission members, the City Manager, the City Clerk, and the press at least five (5) days before a regular City Commission meeting. The City Commission shall have the option of deleting any item from the agenda or deferring an item on the agenda to a subsequent meeting. The Presiding Officer or any Commission member may introduce a new item to the agenda by Noon *seven (7) days* before a meeting.

Persons wishing to be placed on the agenda must submit complete written documentation to a member of the City Commission or City Manager who shall make the determination whether to forward to the City Clerk to be placed on the agenda. All requests are due by noon, seven (7) days prior to the meeting. Requests, which do not include detailed information on the proposed subject matter, will not be placed on the agenda.

The City Commission deals with a variety of routine items that do not require individual action or discussion. These items include accounts payable, meeting minutes, etc. These types of items shall be listed on a "Consent Calendar" where one (1) action approves all items. However, if an individual Commissioner wishes to discuss a particular item, then that item shall be removed from the said "Consent Calendar" during the "Approval of the Agenda" portion of the meeting. (See Rule 16. E-3)

RULE 10. WORKSHOPS

Special Workshops, or regular City Commission meetings that may be canceled by the Presiding Officer in accordance with law, may be designed as Workshops where no official action is contemplated. Workshops may be conducted informally so long as such informality is not in conflict with these rules. The City Clerk, under the direction of the City Manager, shall arrange a City Commission Workshop agenda for the Workshop. The Workshop agenda shall, for each item, contain the Workshop Item. After the proposed Workshop agenda has been approved by the City Manager, a copy of it along with any supporting materials shall be prepared for City Commission members, the City Manager, the City Clerk and the press at least *seventy-two (72) hours* before the City Commission Workshop. During the Workshop, the Presiding Officer may; 1) introduce the subject and give background information; 2) identify the eventual goal of the Workshop, and; 3) act as facilitator to keep the meeting discussion focused to the subject.

CITY OF TRUTH OR CONSEQUENCES COMMISSION RULES OF PROCEDURE

RULE 11. CITY MANAGER

The City Manager, as the chief administrative, and executive officer and head of the executive branch of City government or his/her designee, shall attend all meetings unless excused by the Presiding Officer or City Commission. The City Manager may take part in the City Commissioner's discussion on all matters on the agenda, and otherwise concerning the welfare of the City. Except when clearly undesirable or unnecessary, the commission shall request the opinion of the manager on any proposed measure (§3-14-14 NMSA 1978). The City Manager has a seat at commission meetings, but does not have a vote. In the event that the City Manager is unable to attend a City Commission meeting, the City Manager shall appoint another qualified staff member to attend the meeting on behalf of city management.

RULE 12. CITY CLERK

The City Clerk shall be ex-officio Clerk of the City Commission, and shall keep minutes and shall perform such other and further duties in the meeting as may be required by the City Commission, Presiding Officer, or City Manager. In the absence of the City Clerk, the City Manager or the Clerk shall appoint another qualified staff member to act as Clerk.

RULE 13. FORMS OF ADDRESS

The Mayor shall be addressed as "Mayor", "Your Honor", or "Mr. /Madam Mayor". The Mayor Pro-Tempore, when acting for the Mayor, shall be addressed as "Mayor". Members of the City Commission shall be addressed as "Commissioner".

RULE 14. APPEARANCE OF FAIRNESS DOCTRINE

Appearance of Fairness Doctrine and its Application.

When public hearings give the public not only the right to attend, but the right to be heard as well, the hearings must not only be fair, but must appear to be so.

It is a situation where appearances are quite as important as substance. The test of whether the appearance of fairness doctrine has been violated is as follows; 1) Would a disinterested person, having been appraised of the totality of a board member's personal interest in a matter being acted upon, be reasonably justified in thinking that partiality may exist?

If answered in the affirmative, such deliberations, and any course of conduct reached thereon, should be voided.

CITY OF TRUTH OR CONSEQUENCES COMMISSION RULES OF PROCEDURE

RULE 15. RULES OF ORDER

The City Commission members shall be governed by the “City Commission Rules of Procedure”.

RULE 16. ORDER OF BUSINESS

The City Commission may use the following as a guideline for the business of all regular meetings of the City Commission. However the Presiding Officer may, during a City Commission meeting, re-arrange items in the agenda to conduct the business before the city Commission more expeditiously.

(a) **Call to Order** by the Presiding Officer

(b) **Introduction**

(1) **Roll Call** (See Rule 7 for procedure to excuse an absence).

(2) **Silent Meditation**

(3) **Pledge of Allegiance**

(4) **Approval of Agenda**

(c) **Comments from the Public** (for Items not on the agenda – see Rule 17 for procedural details.)

(d) **Response to Public Comments**

(e) **Consent Calendar**

(1) The City Manager, in consultation with the Presiding Officer, shall place matters on the Consent Calendar which have been; a) previously discussed by the City Commission, or; b) based on the information delivered to members of the City Commission by administration that can be reviewed by a Commission member without further explanation or; c) are so routine or technical in nature that passage is likely, or; d) as directed by the City Commission.

(2) The Presiding Officer shall read the Consent Calendar, including the titles of any resolutions contained therein.

(3) Prior to the vote on the motion to adopt the Consent Calendar, the Presiding Officer shall inquire if any City

CITY OF TRUTH OR CONSEQUENCES COMMISSION RULES OF PROCEDURE

Commission member wishes an item to be withdrawn from the Consent Calendar. If any matter is withdrawn, the Presiding Officer shall place the item at an appropriate place on the agenda for the current or a future meeting.

(f) Public Hearings (see Rule 17 for procedural details).

(g) Ordinances, Resolutions, and Zoning

(h) Unfinished Business

(i) New Business

(j) Reports

- i. City Manager
- ii. City Attorney
- iii. City Commissioners

(k) Executive Session (Taken action as needed)

(l) Return to regular Session (if applicable)

(m) Adjournment

RULE 17. ACTIONS FOR “COMMENTS FROM THE PUBLIC” OR A PUBLIC HEARING

The procedures for “Comments from the Public” are as follows:

Any member of the public may request time to address the City Commission. The Presiding Officer in his/her discretion may then allow the comments, subject to a time limitation of three (3) minutes. Following such comments, the City Commission may place the matter on a future agenda, or refer the matter to the City Manager for investigation and report. After the close of all public comments, the City Commissioners may immediately respond to the public comments or respond to the public comments during the “Response to Public comment” section at the next regularly scheduled City Commission Meeting.

Prior to the start of “Comments from the Public”, all persons wishing to be heard shall give their names and addresses.

The following rules of conduct shall apply to all public comment:

No comments shall be made from any other location than the podium and anyone making “out of order” comments as determined by the Presiding Officer may be subject to

CITY OF TRUTH OR CONSEQUENCES COMMISSION RULES OF PROCEDURE

removal from the meeting. In that regard, a police officer may be present to enforce these rules of conduct.

There will be no demonstrations during, or at the conclusion, of anyone's presentation. No extensions of time shall be given to any speaker, and no sharing or passing of time to other speakers shall be permitted.

If it appears that a group of speakers desire to speak on a particular subject, that group shall delegate a spokesperson to speak for the entire group. This will prevent repetitious comments and prevent the wasting of time.

Any person making a public comment may also supplement their comment by submitting documents. Such documents, however, must be deposited into a receptacle that is designated by the chair. The speaker may not approach the Commissioners without the express consent of a majority vote of the Commission. At the close of the open portion of the City Commission meeting, the City Clerk shall collect the deposited documents from the receptacle.

Any person who violates the rules of conduct may be subject to having their speaking privileges removed at future City Commission Meetings or may be subject to removal from that particular meeting as determined by a majority vote of the City Commission.

The Procedures for a "Public Hearing" are as Follows:

- (a) Prior to the start of a public hearing all persons wishing to be heard shall give their name and address and whether they wish to speak as a proponent, opponent, or otherwise. The time limit for each speaker shall be limited to five (5) minutes. In public hearings that are not of a quasi-judicial nature, the time limit for each speaker shall be limited to five (5) minutes. The Presiding Officer, subject to concurrence of the majority of the City Commission, may extend time limits and otherwise control presentation, The Presiding Officer may change the order of speakers so that testimony is heard in the most logical groups (i.e. proponents, opponents, adjacent owners, vested interests, etc.). However, the following shall be determined a reasonable guide.
- (b) The Presiding Officer introduces the agenda item, opens the public hearing, and asks for comments for or against the item at hand.
- (c) At the outset of each public hearing or meeting to consider a zoning amendment or zoning reclassification the Presiding Officer will announce the legal standards for zoning amendments and ask the parties to limit their presentations to information within the scope of the standards.
- (d) The Presiding Officer calls upon the City Manager to describe the matter under consideration.

CITY OF TRUTH OR CONSEQUENCES COMMISSION RULES OF PROCEDURE

- (e) The Presiding Officer calls for proponents.
- (f) The proponents now speak. (Note: If the City itself is the proponent, a member or members of the Administration shall be designated to give proponent and rebuttal testimony).
- (g) Opponents speak.
- (h) The Presiding Officer calls for proponents to speak in rebuttal. A proponent speaking in rebuttal shall not introduce new materials. If the proponent does, or is allowed to do so, the opponents shall also be allowed to rebut the new elements.
- (i) The Presiding Officer inquires as to whether any City Commission members have any questions to ask the proponents, opponents, or administration. If any City Commission member has questions, the appropriate individual will be recalled to the podium.
- (j) The Presiding Officer closes the public hearing.

RULE 18. VOTING

The votes during all meetings of the City Commission shall be transacted as follows:

- (a) Unless otherwise provided for by statute, a Roll call vote shall be taken for final adoption of ordinances, resolutions, and to adjourn into Executive Session by the Clerk.
- (b) In case of a tie in votes on any proposal, any Commissioner may request the item be put on the next agenda.
- (c) Every member who was in the City Commission chambers when the question was put, shall give their vote unless the City Commission, for special reasons, shall excuse the member by motion or unless the City Commission member is excused in accordance with Rule 7. A City Commission member who “abstains” will be recorded as neither an “aye” or “nay” vote.
- (d) A majority vote of all the members of the City Commission is required to adopt an ordinance or resolution and certain other actions as required by law or ordinance. (§3-17-3 NMSA 1978).
- (e) A member of the City Commission shall recuse himself/herself from participating in a particular item on the agenda when such member 1) has a conflict of interest as described in the Government Conduct Act, 10-16-1, et seq., or 2) the totality of circumstances would create a reasonable public perception that such member

CITY OF TRUTH OR CONSEQUENCES COMMISSION RULES OF PROCEDURE

cannot participate in that particular item in a fair and impartial manner. In such event, the member shall explain his/her reasoning prior to the item being discussed by the City Commission. The recusing member shall then remove himself/herself from the City Commission chambers prior to the commencement of any discussion of that particular agenda item, and shall not vote on such item.

RULE 19. COMMITTEES

The Committee structure of the City Commission and the procedures governing, all committees shall be as follows:

(a) Special ad Hoc Citizen Advisory Committees:

Special as hoc citizen advisory committees may be created by the City Commission for a particular purpose. Committee members shall be appointed by the City Commission. The Presiding Officer shall appoint the chair of the Committee. Citizen study committee shall sunset at the end of their mission, but no later than the end of each calendar year unless specifically continued by the City Commission thereafter for a specified time period. One City Commission member, and one alternate City Commission member, may be appointed as a member and liaison of a Citizen advisory committee.

RULE 20. ENACTED ORDINANCES, RESOLUTIONS AND MOTIONS

An enacted ordinance is a legislative act prescribing general, uniform, and permanent rules of conduct relating to the corporate affairs of the municipality. City Commission action shall be taken by ordinance when required by law, or to prescribe permanent rules of conduct which continue in force until repealed, or where such conduct is enforced by penalty.

An enacted resolution is an internal legislative act, which is a formal statement of policy concerning matters of special or temporary character. City Commission action shall be taken by resolution when required by law and in those instances where an expression of policy more formal than a motion is desired.

An enacted motion is a form of action taken by the City Commission to direct that a specific action be taken on behalf of the municipality. A motion, once approved and entered into the record, is the equivalent of a resolution in those instances where a resolution is not required by law.

RULE 21. RESOLUTIONS

A resolution may be put to its final passage on the same day on which it is introduced. The title of each resolution shall in all cases be read prior to its passage, provided, should a majority of the City Commission members present request that the entire resolution or

CITY OF TRUTH OR CONSEQUENCES COMMISSION RULES OF PROCEDURE

certain of its sections be read, such requests shall be granted. Printed copies shall be made available to interested persons during normal and regular business hours of the City Clerk upon request and payment of a reasonable charge for reproduction.

RULE 22. ORDINANCES

The procedure for ordinances are as follows:

- (a) Notice by publication of the title and subject matter of any ordinance proposed for adoption by the City Commission must take place at least two weeks prior to consideration of final action upon the ordinance in open session. This does not apply to ordinances dealing with an emergency declared by the Mayor to be an immediate danger to the public health, safety and welfare of the City, or to ordinances, the subject matter of which is amending a city-zoning map. The title of each ordinance shall in all cases be read prior to its passage; provided, should a majority of the City Commission members present request that the entire ordinance or certain of its sections be read, such requests shall be granted. Printed copies shall be made available to interested persons during normal and regular business hours of the City Clerk upon request and payment of a reasonable charge beginning with the date of publication and continuing to the date of consideration by the City Commission.
- (b) If a Motion to pass an ordinance fails, any Commissioner may request the ordinance be put on a future agenda after six (6) months.
- (c) Any ordinance amending or repealing any portion of the City Code of Ordinances shall also amend or repeal the respective portions of any underlying ordinance(s).

RULE 23. PERMISSION REQUIRED TO ADDRESS THE COMMISSION

Persons other than City Commission members and management may be permitted to address the City Commission upon recognition and introduction by the Presiding Officer or the chair of the appropriate City Commission committee.

RULE 24. COMMISSION RELATIONS WITH BOARDS, COMMISSIONS AND ADVISORY COMMITTEES

All boards, commissions and City Commission citizen advisory bodies shall provide the City Commission with copies of any minutes taken of meetings. Communications from such boards, commissions and bodies to the City Commission shall be recorded in the minutes as follows.

**CITY OF TRUTH OR CONSEQUENCES
COMMISSION RULES OF PROCEDURE**

Any such communication shall be officially acknowledged by the City Commission and receipt noted in the minutes.

**RULE 25. PHOTOGRAPHS, MOTION PICTURES, VIDEO TAPE, TELEPHONE
DEVICES – PERMISSION REQUIRED FOR ARTIFICIAL ILLUMINATION**

No photographs, motion pictures, or video tapes that require the use of flash bulbs, electronic flashes, floodlights, or similar artificial illumination, or telephone devices shall be used at City Commission Meetings without the consent of the Presiding Officer or a majority of the City Commission. All cellular telephones shall be either turned off or placed on a non-audio setting. Reasonable effort shall be made to accommodate the use of audio and video recording devices.