



A PUBLIC GUIDE TO THE NEW ORLEANS CITY COUNCIL

SOURCE:

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FUNCTIONS, STRUCTURE AND PROCEDURES OF THE NEW ORLEANS CITY COUNCIL

1. FUNCTIONS OF THE COUNCIL

The structure of the City Government of New Orleans is set forth in the Home Rule Charter. The Charter provides for a Mayor-Council form of government. Section 3-101 of the Home Rule Charter provides that “all legislative powers of the City shall be vested in the Council...”. Black’s Law Dictionary defines the “legislative department” as “that department of government whose appropriate function is the making or enactment of laws, as distinguished from the Judicial Department, which interprets and applies the laws, and the Executive Department, which carries them into execution and effect.”

A. Enactment of laws pursuant to the police power.

1. A primary function of local legislative bodies—beit the Congress, the Legislature, or the City Council—is the enactment of laws to protect the public health, safety and welfare under what is legally called the “police power.” The Council adopts ordinances of general application pursuant to the police power. Such ordinances include:
 - a. Minimum Housing Standards Code
 - b. traffic and parking regulations
 - c. health and sanitation regulations
 - d. prohibition on certain types of conduct (criminal ordinances)
 - e. land use
2. Ordinances of general application are required by the City Charter to be codified (placed in the City Code or other code such as Fire Code, Building Code, or Comprehensive Zoning Ordinance) (HRC Section 3-114). It is important to note that the Executive Branch (Mayor) plays an important role in the enactment of ordinances. On the one hand, the Mayor or Executive Branch may propose ordinances or make recommendations to the Council regarding legislation. Further, the Mayor is given veto power over ordinances and a 2/3 vote of the Council is necessary to override a Mayoral veto (HRC Section 3-113).



B. The City Budget.

1. Legislative bodies are said to possess “the power of the purse strings” in that appropriations for the operations of government are made by the Legislative body and the power to enact laws to raise revenues is vested in the Legislative body.
2. The Charter requires the Administration to prepare operating and capital budgets for the ensuing year and to submit them to the Council not later than the first day of November of each year (HRC Sections 6-102 and 6-104). The Council holds public hearings on the proposed operating and capital budgets. The Council may modify the proposed budgets and is required to approve the budgets by ordinance (HRC Section 3-115 and 3-117). Capital budget money is used for public buildings, streets, etc. Operating budget money is used to pay salaries and buy equipment and supplies (HRC Section 6-103 and 6-105).
3. Under the City Charter, the Council has broad authority to levy taxes. Nonetheless, the State Constitution imposes severe restrictions on the ability of local governments to raise revenue. For example, local governments may not levy an income tax or a gasoline tax. Increased sales taxes require approval of the voters.
4. The Council has responsibilities regarding the salaries paid to City employees. For classified Civil Service workers, Article 10, Section 9 (c) of the State Constitution requires that any rule or determination of the Civil Service Commission affecting wages or hours must be approved by the City Council. The Council must approve pay plans for both classified and unclassified City employees (HRC Section 3-118). Classified employees usually are required to take tests to get jobs or promotions. Unclassified employees are appointed directly by elected officials.
5. *Ad valorem* property taxes are an important source of revenue for units of local government. The City Council acts as a Board of Review for property tax assessments to ensure fairness and equity. A property owner may appeal the assessment made by the Assessor to the Council. The Council normally meets as Board of Review in late August and early September of each year. A further appeal of property tax assessments may be made to the Louisiana Tax Commission and, finally, the courts.



6. There are certain constitutional provisions, laws, and ordinances that require Council approval of actions by other Boards and Commissions. For example, the Council must approve certain contracts of the Sewerage and Water Board and Aviation Board. Plans and budgets of agencies such as the Downtown Development District, New Orleans Business and Industrial District and the Regional Transit Authority (RTA) are subject to Council approval.

C. Land use and Zoning.

1. Throughout the United States, Councils play an extremely important role in land use and zoning matters and, indeed, it is one of the most important functions of the New Orleans City Council.
2. The Council depends on and works closely with the City Planning Commission in connection with zoning and land use matters.
3. There are three (3) types of zoning ordinances routinely adopted by the City Council:
 - a. Map changes (changes to zoning of a parcel of property).
 - b. Text changes (changes to the text of the Comprehensive Zoning Ordinance (“CZO”).
 - c. Conditional use (approval for a particular use subject to specific conditions).
4.
 - a. Each parcel of property in the City is classified as being in a specific zone on the official zoning map. Property may only be used for purposes allowed in the respective zoning district. For instance, property in an RS-1 zoning district is generally restricted to single family housing. Property zoned “HI” (Heavy Industrial) may be used for factories, warehouses, and similar functions.
 - b. The Zoning Ordinance also establishes minimum requirements for things such as open space (yard area) and parking, and establishes maximums for things such as height and density.



5. With the adoption of the amendment to the Home Rule Charter in 2008, the Council is limited in adoption of zoning changes to those that are consistent with the Master Plan (HRC Section 5-404). The Council recently completed the adoption of a new CZO that is consistent with the Master Plan.
6. Through interim zoning measures such as moratoriums and through other land use control measures, the Council may temporarily prohibit demolitions or the establishment of different types of uses in areas of the City.
7. The Council, through the establishment of historic districts, also regulates the aesthetic characteristics of property in the City as well as the use of the property.

D. Investigations.

1. Typically, legislative bodies are given authority to conduct investigations. This is a function of the New Orleans City Council and forms an important part of the system of checks and balances provided for in the City Charter.
2. Actually, the Council routinely “investigates” matters as it conducts public hearings and asks questions of executive branch officials at City Council meetings. Section 3-124 of the Home Rule Charter gives the Council specific authority to investigate the operation of any official, department, or board, any matter upon which it may legislate, or, subject to limitations, any entity that receives funds from the City. Importantly, the Council is given the power to administer oaths, subpoena witnesses, and compel the production of books and papers. The Council is also authorized by Section 4-403 of the Charter to employ special counsel to assist it in the conduct of investigations or for other matters.

E. Utility regulation.

1. The New Orleans City Council is unique in that it is responsible for the regulation of electric and gas utilities within the City. Few cities in the United States have such regulatory authority over electricity and gas. Normally, state Public Service Commissions are responsible for such regulation (HRC Section 3-130).
2. The Council also regulates Cox Cable.



3. A third area of public regulation under the jurisdiction of the Council is the regulation of taxi cabs, limousines, and other for-hire vehicles (HRC Section 3-131).

F. Boards and commissions.

1. In general, under the Charter, the Mayor makes appointments to most boards and commissions. However, the Council, as a check and balance, must approve the appointment of persons nominated to boards and commissions by the Mayor (HRC Section 4-206 (1) (e)).
2. The Council makes appointments to some boards and commissions, notably the Civil Service Commission (HRC Section 8-103), the Home Mortgage Authority, and the Alcoholic Beverage Control Board (HRC Section 5-901).
3. By virtue of their office, some Councilmembers serve *ex-officio* on different boards and commissions. Councilmembers-at-Large for example, serve on the Sewerage and Water Board (HRC Section 5-301) and the Regional Planning Commission. The Council also makes appointments of Councilmembers to the City Park Board, French Market Corporation, etc.

G. Advocacy. In addition to making laws, Councilmembers are in fact the closest of all elected officials to the citizens. The Council's official business is conducted within the City of New Orleans as opposed to Baton Rouge or Washington, D.C. Councilmembers consequently are accessible to the citizenry and act as advocates in City Government and in other agencies of government on the behalf of citizens. By virtue of their office, Councilmembers can influence matters in the community and the private sector and through speeches, policy statements, and meetings within the community exert moral suasion and help shape decisions throughout the community.



2. STRUCTURE.

A. Composition. The Charter provides for seven Councilmembers, two elected at-large and five from districts of approximately equal population. The Council must redistrict the Council districts after each decennial federal census (HRC Section 3-102 and 3-103).

B. Compensation. Each member of the Council receives the same amount of pay. In 2009, the salary for Councilmembers was set at \$83,507 per annum (Ordinance Number 23749 M.C.S. and City Code Section 2-60). The salary is adjusted annually to reflect changes in the cost of living. The Council cannot increase its own salary; changes in the Council salary can only be effective for the next elected Council (HRC Section 3-106).

C. Organization. One of the Councilmembers at-Large is elected by the Council as President and the other Councilmember-at-Large is elected by the Council as Vice-President. In practice, the presidency and vice-presidency rotate between the two Councilmembers-at-Large annually. This is part of the Council rules (HRC Section 3-107 and Council Rule 8).

D. Staffing. The Council is assisted by a combination of personal staff members responsible to each individual Councilmember and central staff units responsible to the Council as a whole. The central staff units, headed by the Council Chief of Staff, are as follows:

1. Clerk of Council
2. Fiscal Office
3. Utilities Regulatory Office
4. Research Staff

E. Assistance from Executive Branch. In addition to those on staff, the Council receives assistance from various departments of the Executive Branch. The City Attorney and the Department of Law provide legal advice to the Council. The Chief Administrative Officer and the department heads of City Government give the Council advice on the budget and on matters under their jurisdiction.



3. PROCEDURES.

A. Requirements of State Law. A number of matters affecting procedures that the Council must follow are mandated by the State Constitution or State laws. Some important examples include:

1. **Open Meetings Law.** With few exceptions, meetings of the Council and its committees must be open to the public. This is popularly called the Sunshine Law (L.R.S. 42:4.1 et seq). Executive sessions may be called for the purpose of discussing limited subjects such as pending or threatened litigation; discussion of character, professional competence or physical or mental health of a person; report or development of security plans, personnel or devices; and investigations of alleged misconduct.
2. **Public Records Act.** Official documents of the Council, reports and memos, as well as e-mails, are subject to the provisions of the State Public Records Act and are generally available for public inspection and copying. Exceptions would include privileged communications in connection with litigation, for example (L.R.S. 44:1 et seq). This applies to Councilmembers, their staffs, and central staff. Such records must be kept a minimum of three years or in accordance with a Records Retention Plan approved by the Louisiana Secretary of State.
3. **State and City Ethics Codes.** Members of the Council are required to follow the provisions of the State and City Ethics Codes to prevent conflicts of interest or acceptance of things of value for service as public officials (L.R.S. 42:1101 et seq and City Code Section 2-716).

B. Procedural Requirements of the Home Rule Charter. The Charter itself sets forth many important procedural requirements for the conduct of the Council's business. Some of the more important requirements are listed below:

1. Regular meetings. The Council's Rules must provide for regular semi-monthly meetings throughout the year (HRC Section 3-107(5)).
2. Laws adopted by the Council must be by ordinance (HRC Section 3-111).



3. All ordinances when introduced must be complete and in writing and may not be amended so as to nullify the original purpose (HRC Section 3-112 (1)).
4. Except in extreme circumstances, ordinances must lie over for at least six days prior to adoption. Some ordinances must lie over at least 20 days before adoption because of their important subject matter (see IV A.1.d below) (HRC 3-112(4)).
5. The Council Rules. The provisions of State Law and the City Charter are supplemented by the Council’s own rules. In general, the rules provide for parliamentary procedures observed by the Council and other matters such as time limits on speakers, frequency of meetings, and organization of committees, etc.

4. LEGISLATIVE INSTRUMENTS USED BY THE COUNCIL

A. Purpose. The purpose of this section is to give a brief summary of the official legislative instruments used by the City Council. The Council’s official acts include the following:

1. **Ordinances.** In general, acts of the Council that are laws are adopted by ordinances. Ordinances are subject to advertising and lie-over requirements and are subject to veto by the Mayor. At least five votes are necessary to pass an ordinance that has been vetoed.
 - a. Local laws. Ordinances are our local laws. The Council adopts these as “the local governing authority” of the City of New Orleans. The Mayor is required by the City charter to “see that...the ordinances of the City, and all laws are enforced.” The Charter sets forth requirements for ordinances (HRC 3-112).
 - b. Subject matter of ordinances. The following are examples of things that the Council accomplishes by passing ordinances:
 - Certain actions are made unlawful.
 - The City operating budget is adopted or amended.
 - A street is dedicated (or undedicated).
 - A franchise for use of City streets is awarded.



- A requirement for a permit in order to do something is established.
- Required compliance standards are established.
- A tax is levied.
- A service charge is imposed.
- An area is designated as an historic district.
- A procedure to be followed by the City Administration is specified.
- A temporary moratorium is established.
- The unclassified pay plan is amended.
- The zoning of property is changed.
- City property is authorized to be sold.

c. Introduction of ordinances. Only a Councilmember may introduce an ordinance. When introduced, ordinances must be complete and in writing (HRC Section 3-112(1)).

Except for codifications and the annual operating and capital budgets, ordinances must embrace only one object. For example, one ordinance cannot raise the Mayor's salary and also prohibit alcoholic beverage outlets in Algiers.

After introduction, ordinances are distributed to the Councilmembers and Mayor and made available to the public.

d. Lie-over requirements. Before an ordinance can be adopted, it must lie over for at least six days prior to adoption (HRC Section 3-112(4)).

Some ordinances must lie over for at least 20 days and can only be adopted at a "regular" (as opposed to "special") Council meeting (HRC Section 3-112(5)). Those 20-day lie-over ordinances include ordinances that:

- (1) Levy or increase a tax.
- (2) Require a license or permit or establish or increase a service charge or permit fee.
- (3) Change zoning.
- (4) Alienate City real property or grant franchises.

These lie-over requirements can only be waived by unanimous vote of a quorum of the Council declaring the existence of an emergency due to act of God, riot, war, or a



grave emergency that threatens widespread loss of life or grievous injury to health or property (HRC Section 3-112(11)).

e. Amendment of ordinances. The City Charter prohibits amendments to ordinances that nullify the original purpose of the ordinance or accomplish an object not germane to its original purpose. For example, an ordinance to dedicate a street could not be amended to become an ordinance to raise Council salaries (HRC Section 3-112(3)).

f. Vote to adopt an ordinance. At least four votes are required to adopt an ordinance. If two Councilmembers are absent, an ordinance cannot be adopted by a three to two vote (HRC Section 3-112(10)).

g. Mayoral approval or veto. Following adoption, an ordinance is delivered by the Clerk of Council to the Mayor. The Mayor can approve, veto, or take no action on an ordinance (HRC Section 3-113).

If the Mayor approves the ordinance, it becomes law upon its return to the Clerk of Council and becomes effective at noon the next day (HRC Section 3-113(2)).

If the Mayor takes no action, the Ordinance becomes law at noon on the tenth calendar day following its adoption and effective at noon the next day (HRC 3-113(2)).

If the Mayor vetoes the ordinance, the Mayor must return it to the clerk within ten calendar days of receipt. The Mayor must provide a written veto message (HRC 3-113(2)).

An ordinance that has been vetoed is reconsidered by the Council at one of its next two regular meetings. At least five votes are necessary to override a veto, even if one or more Councilmembers are absent (HRC 3-113(3)).

h. Important exception. The City Charter allows utility rate orders, such as Entergy rates, to be approved by ordinance or resolution. The Council has historically used the resolution format for utility rate orders (HRC 3-130(6)).



2. **Motions.** Motions generally give approval or ratification to the act of another party or authorize some action by the executive branch.

a. During the course of a Council meeting, many verbal motions are made as part of parliamentary procedure, e.g. motions to defer a matter, suspend the rules, recess, etc. This report does not deal with such parliamentary matters but rather with the written document called a Motion that gives Council approval to certain things.

b. By custom, the council employs a written “motion” to authorize or give its approval to various actions. The motion format is used by the Council to approve or authorize things such as:

- Appointments to boards and commissions.
- Public hearings by the Planning Commission to consider a zoning matter.
- Amendments to the City Council’s Rules.
- Planning Commission recommendations on zoning petitions.
- Declarations of emergency for purposes of waiver of public bid laws.
- Operating budgets of agencies such as the French Market Corporation.
- Temporary alcoholic beverage licenses.
- Amendments to the Civil Service pay plan for classified employees (HRC Section 8-110).

c. Motions are not generally subject to the lie-over requirements as are ordinances. Under the Council rules, some motions should lie-over (Rule 15). These include new appointments to boards and commissions. At least four votes are needed to adopt a motion under the Council Rules. A motion is not subject to a Mayoral veto. Motions to amend the council rules must be published at least one week before adoption, and thus will lie over HRC Section 3-107(3)).

3. **Resolutions.** Resolutions generally express the will or sentiment of the council or request some action.

a. By custom, a “Resolution” format has been used by the Council to express its opinion on a matter or to request action or information from some entity. Such resolutions may:



- Ask Congress to consider some Federal legislation.
- Request the Governor to take some action.
- Express condolences upon the death of an individual.
- Request action or a study by the City Administration.

b. Resolutions are not subject to lie-over requirements or veto. As with ordinances and motions, at least four votes are necessary to pass a resolution.

c. There are important exceptions to the above discussion of resolutions. They are:

(1) Under the City Charter, utility rates and orders may be made by “ordinance or resolution” (HRC 3-130(6)). Historically, the Council has employed the resolution format in utility rate matters. Therefore, the Mayor’s approval has not been required as it would be if the ordinance format were used.

(2) Sometimes, the Congress or the Legislature will pass laws that require some form of local approval by a city council, town council, etc. The Congress or the Legislature may require such local approval by “Resolution.” In such cases, the New Orleans City Council may follow the terminology used in the Federal or State legislation and use a “Resolution” format for something that the Council would normally approve by “Motion.”

4. Other Comments.

a. Introduction of Legislation “By Request.” Sometimes, the phrase “By Request” appears following the name of the author of an ordinance, motion, or resolution.

By custom, the “By Request” designation indicates that the author has introduced the legislation as a courtesy and therefore may not support it when it comes to a vote.

Typically, “By Request” means that the City Administration has requested introduction of a piece of legislation. However, the phrase may also be used when private parties have requested a Councilmember to introduce an ordinance, motion, or resolution.



b. Codification. The City Charter (3-114) and the Louisiana Constitution (Article VI, Section 10) require that ordinances of general application be “codified” or placed in a code book.

The City of New Orleans has a number of “codes,” including the City Code, Zoning Ordinance, Building Code, and Fire Prevention Code.

The codification requirement doesn’t apply to ordinances that are not of general application such as an ordinance re-zoning a specific parcel or an ordinance amending the operating budget of the Department of Public Works.

c. Index of Council legislation. The City Charter requires that the Clerk of Council maintain a comprehensive index of Council ordinances, motions, resolutions, and other official acts (HRC Section (3-107(7))).

d. Advertisement requirements. The Charter requires that all official acts of the Council including ordinances, motions, and resolutions be published in the City’s Official Journal, electronically, or in a register (HRC Section 3-113(5)).

e. Agenda deadline. The Council Rules contain an agenda deadline, currently at noon on the Monday before a Thursday Council meeting. If an ordinance on first reading, motion, or resolution does not make the written agenda, the Council’s Rules must be suspended by unanimous vote of those present in order to introduce or consider the item (Rule 17 and R.S. 42:7(A)).

f. Proclamations. The Council issues different types of proclamations and certificates for ceremonial purposes or to honor some person or activity. These are not official acts of the Council.



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