File #: Rule 13, **Version:** 1

Proposed amendment to Rule 13 of the Rules of Procedure of the Council.

13. Filing deadlines; emergency items

13.1 The following deadlines apply:

1. All ordinances and resolutions shall be filed in the Clerk's Office not later than noon on the Tuesday at least one week prior to a regular meeting of the Council and not later than 11:00 a.m. of the third day, excluding Saturdays and Sundays, preceding the day of any other Council meeting.

2. No ordinance or resolution may be filed by the Council Office unless the originals have first been delivered to the Council Office not later than noon on the second Friday preceding the regular meeting date or not later than noon the fourth day, excluding Saturdays and Sundays, preceding the day of any other Council meeting.

3. Legislation prepared by the Council Office must be requested in writing at least 48 hours prior to this delivery deadline.

4. Subject to Section 6.13 of the Metropolitan Charter, the Capital Improvements Budget shall be filed in the Clerk's Office on or before May 15 at 4:30 p.m. for consideration at the next regular Council meeting.

13.2 All amendments to, or substitutes for, an ordinance or a resolution~~, or any requested latefiled legislation,~~ shall be delivered to the Council Office not later than noon on the Friday immediately preceding the regular meeting date. In the event of a special meeting, delivery shall occur not later than noon the second day -- excluding Saturdays and Sundays -- preceding the day of such Council meeting. Amendments or substitutes will be prepared in a manner that indicates deletions by striking through such content and insertions by underlining such content.

13.3 The Council may not consider any ordinance, resolution, amendment, or substitute unless filed in accordance with the two preceding paragraphs, with the exception of legislation filed directly with the Clerk by a Councilmember.

13.4 No ordinance, binding resolution, amendment, or substitute submitted after these prescribed deadlines ("late-filed legislation") will be considered by the Council except on an emergency basis. ~~Nonbinding resolutions submitted after the prescribed deadlines are not eligible to be considered on an emergency basis.~~ It is not the responsibility of the Council Office to prepare late-filed legislation.

13.5 Any sponsor of such late-filed legislation must appear before the Rules Committee immediately prior to the regular meeting to disclose (1) the nature of the emergency; (2) whether the legislation could have been timely filed; and (3) whether the matter can wait until the next Council meeting. Late-filed legislation ~~ordinances and late resolutions~~ will be referred to other appropriate committees per Rule 7.

13.6 Late-filed legislation introduced during a Council meeting is not subject to Section 13.5 however the rules must be suspended, per Rule 7, for the late-filed legislation to be considered.

13.7~~6~~ Upon consideration of the late-filed legislation, ~~At the subsequent regular meeting~~, the sponsor must

state on the introduction thereof that an emergency exists, must state the nature of the emergency, and must request a suspension of the rules. The Council recommends that memorializing late-filed legislation be filed for the subsequent Council meeting.

Analysis

While the Council Office does not normally provide analysis for amendments to the Rules of Procedure, this Rule Amendment contains several significant modifications that would have serious effects for the operation of the Council, the Council Office, and the Metro Clerk, to an extent that the Council Office deemed a deviation from standard practice advisable. The rule amendment would modify Rule 13, which governs filing deadlines and emergency legislation items.

Rule 13.1.2
The proposed amendment would modify Rule 13.1.2, which currently provides that no ordinance or resolution may be filed unless the originals have first been delivered to the Council Office not later than noon on the Second Friday preceding the regular meeting date or not later than noon the fourth day, excluding Saturdays and Sundays, preceding the day of any other Council meeting. This rule currently serves as the legislative filing deadline for all legislation whether prepared by administrative departments or by members of the Council. The proposed amendment would be changed to apply these deadlines only to ordinances or resolutions filed “by the Council Office.” The proposed amendment would effectively eliminate the requirement that all administrative legislation be first filed with the Council Office prior to being filed with the Metro Clerk.

Rule 13.2
The proposed amendment to Rule 13.2 would remove references to the deadline for requested late-filed legislation. Currently, Rule 13.2 provides that requested late-filed legislation must be delivered to the Council not later than noon on the Friday immediately preceding the regular meeting date. In the event of a special meeting, delivery must occur not later than noon the second day -- excluding Saturdays and Sundays -- preceding the day of such Council meeting. The proposed amendment would effectively eliminate the Friday deadline for late-filed legislation. This deadline currently allows a short amount of time for legal and format review prior to inclusion in the “amendments packet” which is then delivered to Council members by 9 a.m. the Monday preceding a Council meeting.

Rule 13.3
Rule 13.3 currently provides that the Council may not consider any ordinance, resolution, amendment, or substitute unless filed in accordance with Rule 13.1 and 13.2. This provision would be amended to give an exception for legislation filed directly with the Clerk by a Councilmember. Adoption of this rule amendment in conjunction with the amendment to 13.1 will effectively eliminate the administrative legislation filing deadlines.

Rule 13.4
Rule 13.4 currently provides that no ordinance, binding resolution, amendment, or substitute submitted after the deadlines in Rule 13 will be considered by the Council except on an emergency basis. It further provides that nonbinding resolutions submitted after the prescribed deadlines are not eligible to be considered on an emergency basis. This proposed amendment removes the sentence regarding nonbinding resolutions. However, it retains the reference to binding resolutions in the first sentence of this provision, rendering ineffective the likely intent of allowing late nonbinding resolutions.

Rule 13.6

A new Rule 13.6 would be added to state that “[l]ate-filed legislation introduced during a Council meeting is not subject to Section 13.5 [which sets out the requirement that late items appear before the Rules Committee to discuss the emergency need] however the rules must be suspended, per Rule 7 [which requires a committee recommendation], for the late-filed legislation to be considered.” Currently, not all late-filed legislation would require a suspension of Rule 7 - notably, the rule requires ordinances to have a committee recommendation prior to final passage, thus Rule 7 would not need to be suspended in order for a late-filed ordinance to be introduced.

Rule 13.7

Finally, the existing Rule 13.6, which would be renumbered as 13.7, would be amended to reflect language updated by the proposed amendments and also to provide that “the Council recommends that memorializing late-filed legislation be filed for the subsequent Council meeting.” Presumably, this language is responsive to the intended removal of the prohibition of late-filed non-binding resolutions. As stated above, effectively, late filed non-binding resolutions would still be prohibited with the adoption of the proposed rule amendment.

Further Discussion

With the effective elimination of the Friday filing deadline in the Council Office, Council members and the Council Office would learn of legislation upon publication of the Clerk’s agenda, which occurs on the Wednesday prior to the Council meeting.

Currently, the Council Office reviews legislation submitted by Council members prior to filing for potential legal concerns, correct formatting, required provisions including the enacting clause and effective date, and typographical errors. If submitted directly with the Clerk, the Council Office would not be able to review legislation and the Clerk, in its position, would not be able to make any changes to legislation once filed. Thus any needed formatting changes would require amendments.

Administratively, the Council Office also uploads Council member-initiated legislation into the Granicus program Legistar, which makes the legislation available online upon publication by the Clerk’s Office. Currently, the Clerk’s Office does not upload any legislation into Legistar. In addition, the Council Office assigns committees to legislation, which is performed before filing. The Council Office also prepares committee agendas, which are published the day after the agenda is published. The Council Office prepares an analysis of legislation, which is published the Thursday after the agenda is published, however, all of this work begins days in advance of these deadlines. This Rule Amendment would present an administrative burden on the Council Office staff, would present a difficulty in the Council Office’s preparation of meetings, and would transfer administrative responsibilities from the Council Office to the Metro Clerk.

In addition, this proposed rule amendment provides an opportunity for Council members to submit legislation on behalf of themselves, a department, or third party that has not been vetted by the Council Office legal staff or the Metropolitan Department of Law. Both are tasked with providing legal advice and representation to the Council. This could allow for legislation with serious legal implications to be filed.

This proposed Rule Amendment, if adopted, would seriously hinder the Council Office’s ability to effectively perform the work for which the Council Office was created - to provide research and advisory services to the

Council on legislative matters. *See* Metropolitan Code of Laws Section 2.04.030.A.

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