

## MEMORANDUM

**TO:** Dan Decker, City Manager; Alice Ruby, Mayor; Council  
**FROM:** Sam Severin & Robert Palmer, Attorneys for City  
**RE:** Failure to introduce (and adopt) budget ordinance  
**DATE:** June 6, 2025

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This legal opinion provides guidance on the consequences of not introducing the budget ordinance (2025-01) on June 5, 2025, and options to have a public process on the budget.

**Background.** We understand the Council voted not to introduce Ordinance 2025-01 at the regular Council meeting on June 5, 2025.

**Consequences.** State law and City code require the City to adopt a budget. AS 29.35.100(a) requires (1) the Council to establish procedures for submission of the annual budget, (2) requires a public hearing, and (3) requires the Council to appropriate funds necessary for the budget. The Council, in 1986, satisfied the first requirement of AS 29.35.100(a) by codifying budget procedures at DMC 4.12. Notably, DMC 4.12.020 requires the Council to hold a public hearing and allow all interested parties an opportunity to be heard. *If the Council fails to adopt the budget by June 30, then DMC 4.12.050(a) includes a necessity clause in which the budget as developed by the City Manager is automatically adopted and the proposed expenditures are appropriated.* If a Council member objects to the substance of the budget, the Council member should ensure the budget is introduced, ensure the public hearing occurs, and make amendments to the budget ordinance. DMC 4.12.030. The failure to introduce the budget ordinance can deprive the public of the opportunity to be heard on the budget and subject Council members to recall for failing to perform a prescribed duty. *E.g.*, A.S. 29.26.250 (grounds for recall).

**Options to reintroduce Ordinance 2025-01.** As Council members consider the consequences of not introducing the budget ordinance, the Council might consider one of the following options to reintroduce Ordinance 2025-01.

**Option 1: Rescind.** DMC 2.09.150 allows the Council to rescind a previous vote when the subject has not passed out of the Council's control. Because the Council still has time to introduce and adopt the budget, a motion to rescind is viable. Sample motion: "I move to rescind the June 5 vote regarding introduction of Ordinance 2025-01," which requires four votes to pass, then a motion to introduce the ordinance could be remade.

**Option 2: Suspend Robert's Rules.** Robert's Rule of Order (RRO) 25 allows the Council to suspend the parliamentary rules. Sample motion "I move to suspend the rules so that we can start over with motions regarding Ordinance 2025-01," which requires two-thirds of the members present to vote in favor of passage. RRO 1:7. Then a Council member could move to introduce Ordinance 2025-01.