

Carl Hoffman

From: Andrew Gwin <agwinssdp@gmail.com>
Sent: Tuesday, May 26, 2026 3:44 PM
To: CityRecorder
Subject: [EXTERNAL]Salem City Council Testimony May 26 2026
Attachments: Salem_City_Council_Testimony_Andrew_Gwin_May_26_2026.pdf

Please accept the attached testimony for agenda item 26-183.

Andrew Gwin

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TESTIMONY BEFORE THE SALEM CITY COUNCIL

Re: Proposed Amendments to Council Rules; Agenda Item 26-183

Submitted by: Andrew Gwin, Resident and Business Owner

Dear Mayor Hoy and members of the Salem City Council,

My name is Andrew Gwin, and I am a Salem resident from Ward 3. I am here today to testify regarding the proposed amendments to the Council's rules of procedure, specifically the new language in Rule 8 (General Decorum), Rule 8.1 (Ejection and Exclusion), and the newly proposed Rule 15(i) (Use of Profanity Prohibited). I have several serious concerns about the constitutionality and fairness of certain provisions, and I also wish to commend where the proposed language is appropriate.

I. Rule 8 — Proposed Suspension of Public Comment for All Participants

I oppose the proposed addition to Rule 8, which would authorize the Presiding Officer to suspend public comment for all participants, including those who are not being disruptive, when a disruption continues after a warning has been issued.

The proposed new language reads: "The Presiding Officer may suspend public comment for all participants if deemed necessary because actual disruptions of the meeting continue to occur after a warning has been given, subject to Council by majority vote to continue public comment."

Consider the following scenario: members of the public are vocalizing disagreement. The Presiding Officer suspends public comment for everyone. The disruptive individuals don't stop and are then ejected by the sergeant-at-arms. The end result is that law-abiding citizens who were waiting their turn to speak have lost their opportunity to provide public comment; not because of anything they did, but because the Council chose a blunt instrument over a precise one.

The proper and less restrictive remedy for disruption is already available: remove the individuals causing the disruption. That approach is exactly what Rule 8.1, which I will address next, provides for. Suspending all public comment punishes the innocent along with the disruptive, and it does so unnecessarily. I urge the Council to strike this new language from Rule 8.

II. Rule 8.1 — Ejection of Disruptive Persons

I support Rule 8.1 as proposed, specifically the portion authorizing the Presiding Officer to eject individuals who, **after a warning**, continue to cause actual disruption or engage in dangerous or threatening behavior. This is a narrowly tailored, constitutionally sound approach consistent with well-established First Amendment jurisprudence.

However, I want to be very clear: with regards to disruptive behavior alone, Rule 8.1 should be amended to be an in-meeting ejection only. Any attempt to extend exclusion beyond the single meeting, banning individuals from future meetings or from City Hall entirely based on past disruptive conduct, would be unconstitutional. This is not a gray area.

Controlling Legal Authority:

- Walsh v. Enge, U.S. District Court, District of Oregon (2015): The court struck down Portland City Code § 3.15.020B.5.b, which authorized prospective exclusions from City Hall based on prior disruptive conduct. The court held that "a government entity cannot prospectively exclude individuals from public meetings based solely on past disruptive conduct without violating the First Amendment." The court found that immediate removal during a meeting is a sufficient and less restrictive alternative.
- Reza v. Pearce, Ninth Circuit Court of Appeals: The Ninth Circuit ruled that imposing a complete ban on a person's entry into a government building clearly exceeds the bounds of reasonableness under First Amendment jurisprudence.
- Oregon DOJ Public Meetings Manual (2024), Page 137: The Oregon Department of Justice itself states that "it is questionable whether a governing body may exclude a member of the public because the person engaged in misconduct at a previous public meeting," and recommends prosecution for trespass or disorderly conduct as a more appropriate remedy for repeat disruptions.

Salem should not repeat Portland's mistake. Portland litigated this issue and lost. Maintaining a similar exclusion policy here would expose the City to federal civil rights litigation and an unnecessary expenditure of taxpayer resources, particularly in light of the City's current budget constraints. I urge the Council to amend Rule 8.1 such that it authorizes same-day ejection only.

III. Proposed Rule 15(i) — Prohibition on Profanity

I oppose proposed Rule 15(i), which would prohibit the use of profanity during public comment and in written testimony, citing FCC broadcast regulations as justification. I have significant concerns about both the legal basis and the scope of this rule.

A. FCC Regulations Do Not Apply to YouTube, Zoom, or Similar Platforms

The proposed rule relies in significant part on FCC authority. The FCC does regulate broadcast content on over-the-air television and radio, but its jurisdiction does not extend to internet-based platforms such as YouTube or Zoom. These are private, online platforms, and the FCC has no regulatory authority over their content. The City cannot use FCC broadcast rules as a basis to restrict speech that is streamed over the internet.

Moreover, the decision to broadcast City Council meetings on YouTube or Zoom is the City's choice, and it is a choice made for the City's own administrative convenience. The City should not be able to leverage its own voluntary decision to use private or FCC regulated platforms as a justification for limiting the constitutional speech rights of residents.

If the City's genuine concern is about content on FCC-regulated broadcast channels, there are content-neutral, less restrictive alternatives. CC:Media's own rules and procedures provide a model: programming containing strong or offensive language can be scheduled during late-night hours (1:00 a.m. to 4:00 a.m.) with appropriate viewer advisories, rather than being suppressed outright. Additionally, if the City is already willing to administratively redact profanity from written records, it can apply that same approach to broadcast content, editing or bleeping the audio, rather than restricting what a speaker may say in the first instance.

B. The Written Testimony Prohibition Has No Broadcast Justification

The proposed rule also prohibits profanity in written testimony submitted to the Council. This element of the rule has nothing whatsoever to do with broadcast regulations. Written testimony is not broadcast over the airwaves. It is uploaded to the City's website or entered into the public record. The FCC provides zero legal support for regulating the content of written public testimony.

Restricting the language of written testimony is a content-based restriction on speech in a public forum. Such restrictions face heightened constitutional scrutiny. The justification offered, FCC compliance, does not withstand examination when applied to written submissions.

C. The "Profanity" Definition Is Overbroad and Subject to Selective Enforcement

The proposed rule incorporates the FCC's definition of "profane content" as "grossly offensive" language constituting a public nuisance. This standard is vague and highly subjective. What one person considers grossly offensive, another considers legitimate political expression. Rules that rely on such elastic definitions invite inconsistent and potentially viewpoint-discriminatory enforcement, which itself raises First Amendment concerns.

IV. Conclusion

In summary, my positions are as follows:

- Rule 8 (Suspension of All Public Comment): Oppose. The proposed language unnecessarily punishes compliant speakers. The Council already has the tools to address disruption by removing disruptive individuals. I urge the Council to strike this addition.
- Rule 8.1 (Ejectment): Any exclusion from future meetings would be unconstitutional under *Walsh v. Enge* and *Reza v. Pearce*.
- Rule 15(i) (Profanity Prohibition): Oppose. The FCC rationale does not apply to internet platforms or written testimony. Less restrictive alternatives exist for any legitimate broadcast concern. The vague "grossly offensive" standard invites selective enforcement.

The City of Salem has an opportunity to adopt balanced, legally sound rules that protect both the orderly conduct of public meetings and the constitutional rights of the residents who show up to participate in their government. I urge the Council to reject the provisions I have identified as problematic and to amend the rules accordingly.

Thank you for your time and consideration.

Respectfully submitted,

Andrew Gwin

Ward 3

Salem, OR, 97317

May 26 2026

Carl Hoffman

From: lorrie walker <dakotalor@msn.com>
Sent: Tuesday, May 26, 2026 3:58 PM
To: CityRecorder; citycouncil; Krishna Namburi
Cc: David Gerboth; Brandon Ditto
Subject: [EXTERNAL]Council Item 5 a / Profanity, Guns, Metal Detectors

All,

I am opposed to metal detectors at city council meetings. Salem Police are on duty and in attendance throughout the meeting; they carry loaded weapons. They would literally respond in seconds if an issue occurred.

I am opposed to handheld or walk through metal detectors operated by a DPSST certified person. As a retired Oregon State Hospital security staff, I was trained in the use of metal detectors, I was not DPSST certified, nor is that a requirement.

I am also qualified in the use of many weapons. Many people have concealed carry permits. I have not noticed any other than police at city council or other city meetings. Discreet. Has anyone else?

Have threats of violence been made? Gun threats?

What did Chief Womack think of this? Acting Chief Ditto?

I have never attended any city council meeting in which I felt threatened or felt others were threatened. Loud, yes. Threatened, no.

I have attended meetings where emotions run high. A few meetings with language I wouldn't use in a public meeting. An expectation of respect is one thing but words not liked. Profanity?

Which words?

Using metal detectors would take a up lot of time for 200 people to get into a meeting. City council & city staff subject to detectors too? Meetings have been welcoming for all citizens.

Cost of extra security personnel? Cost of detectors? Power & control issues?

What is the committee justification? Facts-Data-Fear? Whose idea was this?

No signs on a stick? Really? Who has ever been threatened by a protest sign?

If Julie Hoy is fearful of being around "those people" as she says her friend calls us, maybe it's time to step down as the people of Salem have voted her out.

Will we need detectors installed in all city areas, open to public?

Where would it end?

Respectfully,

Lorrie Walker

Ward 2

Unsheltered advocate / Legal guardian

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Carl Hoffman

From: Kim Davis <kimmardav@gmail.com>
Sent: Tuesday, May 26, 2026 4:19 PM
To: CityRecorder
Subject: [EXTERNAL]5a 26-183 Proposed Council Rule Changes comments

Dear Mayor and Coucillors,

I am writing to express my concerns regarding the Proposed Council Rule changes. While I appreciate the desire to maintain decorum and to ensure the safety of all attendees at council meetings, it appears that the proposed rules include expenditures that likely have not been included in the city budget, or achieved public approval, and verbage that requires significant clarification.

I am opposed to the tentative plan to purchase and deploy metal detectors for persons entering council meetings. I do not think this is a wise or necessary use of our limited city funds. Residents of Salem should not be made to feel like suspects when entering a public forum. Weapons are prolific throughout Oregon and regulations are legislated through our state government, not our city council. Implementing this kind of screening could result in a decrease in public participation which should be avoided at all costs. We need to foster increased civic engagement, not diminish it.

Regarding the plan to prohibit profanity, per the FCC Consumer Guide:

"Deciding what's obscene, indecent or profane

Each type of content has a distinct definition:

Obscene content does not have protection by the First Amendment. For content to be ruled obscene, it must meet a three-pronged test established by the Supreme Court: It must appeal to an average person's prurient interest" (prurient interest: "a term that is used for a morbid interest in sex, nudity and obscene or pornographic matters") depict or describe sexual conduct in a "patently offensive" way; and, taken as a whole, lack serious literary, artistic, political or scientific value. Indecent content portrays sexual or excretory organs or activities in a way that is patently offensive but does not meet the three-prong test for obscenity.

Profane content includes "grossly offensive" language that is considered a public nuisance."

Unfortunately, the poorly defined 'grossly offensive language that is considered a public nuisance' may be easily manipulated to infringe on the right to freedom of speech of public members. To incorporate a rule related to such language you will need to provide clarification as words commonly used today surely would have shocked most of our parents. Is being shocked the same as a public nuisance? Not defined. Is it safe to assume that words currently in public use by members of the federal administration are words that may be used by the public, regardless of whether they would have shocked my grandmother? Not defined. In deciding what words can be spoken out loud, apart from restricting obscene comment, the council will need to provide greater clarification. While certainly some choose their words for their very shock value, some of these same words are so commonly used today that the shock effect ended long ago for others.

Thank you for considering my concerns,

K Davis

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Carl Hoffman

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Cc: David Gerboth; Brandon Ditto
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Lorrie Walker

Ward 2

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From: [Lynelle Wilcox](#)
To: [CityRecorder](#); [Julie Hoy](#); [Deanna Gwyn](#); [Mai Vang](#); [Vanessa Nordyke](#); [Linda Nishioka](#); [Paul Tigan](#); [Shane Matthews](#); [Dr. Irvin M Brown](#); [Micki Varney](#)
Cc: [Gretchen Bennett](#); [Krishna Namburi](#); [Courtney Knox Busch](#)
Subject: [EXTERNAL]Public comment May 26 2026 City Council meeting Agenda item 5a
Date: Tuesday, May 26, 2026 4:55:14 PM

May 26, 2026

Dear Mayor and City Councilors,

My name is Lynelle Wilcox and I live in Ward 1. I am writing regarding agenda item 5a - Proposed Council Rule Changes.

I have attended many City Council meetings and other city and commission meetings. Even when opinions and passions are strong, I have not ever felt unsafe, nor have I witnessed any violence or perceived any danger of physical harm. And we already have police presence for safety at City Council meetings, sometimes extra police presence, depending on agenda topics.

Criticism and passion happens at some City Council meetings, and as public officials, it comes with the territory to hear diverse perspectives, including broad and specific criticism sometimes. Some topics warrant strong opinions and passion, and an occasional curse word reflects humanity, and our right to free speech, and does not violate FCC rules. And technology allows for a delay and “bleep” as needed.

The existing decorum rules already allow for redirecting, suspending the meeting, giving a warning, and/or removing a person if their actions and/or testimony is disruptive. And our Police Department and the city already acts effectively in those situations. I am grateful for that.

I vehemently oppose installing metal detectors, or hiring security guards to search people. That proposal reflects fear-mongering that implies that City Council meeting attendees are dangerous. **We have no basis in reality to send that message.** We also have City values of belonging and inclusion and an annual survey to see how Salem is doing in creating an environment of belonging and inclusion. Metal detectors and body searches will reduce civic participation, and they send a message that is very contrary to our City’s values of community-ness, belonging, inclusion, encouragement of civic involvement, and our right to free speech.

Metal detectors and body searches turn us into TSA, instead of an inviting community meeting where all people who will behave appropriately are welcome to come on in without lines to be scanned and body-searched first. We need support of our right to free speech, and we need protocols and rules that reflect our City’s

values, so our values are not just lip service, while also continuing **existing** protocols for decorum and safety.

Thank you for your consideration.

Lynelle Wilcox

Ward 1

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