

## **TOWN OF HUNTERSVILLE BOARD OF COMMISSIONERS RULES OF PROCEDURE**

These rules apply to all meetings of the Board of Commissioners for the Town of Huntersville. For purposes of these rules, a meeting of the Board occurs whenever a majority of the Board's members gather, whether in person or simultaneously by electronic means, to conduct hearings, deliberate, vote, or otherwise transact public business within the Board's real or apparent jurisdiction. The term "majority" as used here and elsewhere in these rules means, unless otherwise specified, a simple majority, that is, more than half.

### **Rule 1. Regular Meetings**

(A) Regular Meeting Schedule. Unless otherwise determined by the Board, the Board shall hold a regular meeting on the first and third Monday of each month, except that if a regular meeting day is a legal holiday, the meeting shall be held on the next business day. The meeting shall be held at Town Hall and shall begin at 6:00 p.m. Annually, the Board shall adopt a schedule of regular meetings. A copy of the Board's regular meeting schedule shall be filed with the Town Clerk and posted on the Town's website.

(B) Changes to Regular Meeting Schedule. Notwithstanding paragraph (A) of this rule, the Board may amend its regular meeting schedule to add or delete meetings or to change the date, time, or location of one or more meetings on the schedule. The amended schedule shall be filed with the Town Clerk and posted on the city's website at least seven (7) calendar days before the day of the first meeting held pursuant to the revised schedule.

(C) Pre-meetings. At any regular meeting of the Board, the Board may hold a pre-meeting before the regular meeting. Such pre-meeting shall be advertised as a special meeting.

### **Rule 2. Special, Emergency, Recessed (or Adjourned) Meetings, and Electronic Meetings in a Declared State of Emergency.**

(A) Special Meetings. The mayor, the mayor pro tempore, or any two members of the Board may at any time call a special Board meeting by signing a written notice stating the time and place of the meeting and the subjects to be considered. A special meeting may also be called or scheduled by vote of the Board in open session during another duly called meeting by motion or resolution specifying its time, place and purpose. At least forty-eight hours before a special meeting, written notice of the meeting, stating its time and place and the subjects to be considered shall be (1) emailed or otherwise delivered to the mayor and each Board member or left at his or her usual dwelling place; (2) posted on the Board's principal bulletin board, or if none, at the door of the Board's usual meeting room (Note: if Town Hall will be closed for a period of 48 continuous hours prior to the meeting, the notice must also be posted on the exterior doors at the front entrance to Town Hall); and (3) emailed, mailed or delivered to each newspaper, wire service, radio station, television station, and person who has filed a written request for notice with the Town Clerk. The notice shall also be posted on the

Town's website prior to the start time of the special meeting, preferably 48 hours in advance. Only those items of business specified in the notice may be transacted at a special meeting called in this manner, unless all members are present or have signed a written waiver of notice. Even in such a case, the Board shall only discuss or transact items of business not specified in the notice if it determines in good faith at the meeting that it is essential to discuss or act on the item immediately.

(B) Emergency Meetings. Emergency meetings of the Town Board may be called only because of generally unexpected circumstances that require immediate consideration by the Board. Only business connected with the emergency may be considered at an emergency meeting. One of the following two procedures must be followed to call an emergency meeting of the Board.

1. The mayor, the mayor pro tempore, or any two members of the Board may at any time call an emergency Board meeting by signing a written notice stating the time and place of the meeting and the subjects to be considered. The notice shall be emailed or otherwise delivered to the mayor and each Board member or left at his or her usual dwelling place prior to the start time of the special meeting, preferably at least six hours in advance.

2. An emergency meeting may be held at any time when the mayor and all members of the Board are present and consent thereto, or when those not present have signed a written waiver of notice, but only in either case if the Board complies with the notice provisions of the next paragraph.

Notice of an emergency meeting under (1) or (2) shall be given to each local newspaper, local wire service, local radio station, and local television station that has filed a written emergency meeting notice request, which includes the newspaper's, wire service's, or station's telephone number, with the Town Clerk. This notice shall be given either by email, telephone or by the same method used to notify the mayor and the Board members and shall be given immediately after the Board members are notified.

(C) Recessed (or Adjourned) Meetings. A properly called regular, special, or emergency meeting may be recessed (or adjourned) to a time and place certain by a procedural motion made and adopted as provided in Rule 18, Motion 2, in open session during the regular, special, or emergency meeting. The motion shall state the time and place when the meeting will reconvene. No further notice need be given of a recessed (or adjourned) session of a properly called regular, special, or emergency meeting, except that notice of the recessed or adjourned meeting must be posted on the Town's website prior to the start time of the recessed or adjourned meeting, preferably 48 hours in advance.

(D) Electronic Meetings.<sup>1</sup> When a State of Emergency has been declared in accordance with N.C.G.S. § 166A-19.20 that is applicable within the Town limits, the

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<sup>1</sup> This rule is not to be confused with Rule 34, Remote Participation in Meetings. The electronic meetings permitted by this rule are only applicable during a declared State of Emergency. Rule 34 is applicable in all other circumstances.

Board of Commissioners, and any Town board, committee, or commission, may hold a regular, special or emergency meeting as a remote, electronic meeting using technology such as Zoom, Ring Central, or another virtual or teleconferencing platform.

Any electronic meeting held under this rule must comply with the requirements of N.C.G.S. § 166A-19.24. Under such conditions, an electronic meeting shall be treated as though it were a meeting at which all of the Board members who are simultaneously communicating are physically present.<sup>2</sup>

The Town Clerk shall act as the electronic host of the meeting and shall be responsible for monitoring which members are connected (present) during the meeting. A member of the public body participating by simultaneous communication under this section shall be counted as present for quorum purposes only during the period while simultaneous communication is maintained for that member.<sup>3</sup> Votes of each member made during a remote meeting under this section shall be counted as if the member were “physically present” only during the period while simultaneous communication is maintained for that member.<sup>4</sup> Any member participating remotely may make a motion to adjourn the electronic meeting if one or more members become unintentionally disconnected from the electronic meeting and reconnection cannot be re-established within a reasonable time.

When stating a motion or second, a Board member shall identify themselves for the record before stating such motion or second. Vote shall be by roll-call vote in alphabetical order by last names.

In addition to complying with the normal meeting notice requirements of the North Carolina Open Meetings Law, the Town shall give as much advanced notice to the Board members, the media and the public of the fact that a regular, special or emergency meeting will be an electronic meeting as is reasonable under the circumstances. Any electronic meeting must allow the ability to listen to the meeting’s live audio, and video, if any, by all members of the Board, the media, and the public, subject to reasonable limitations in the technology used to hold the electronic meeting as to the number of people that can listen to the electronic meeting. The notice stating the electronic aspect of a meeting shall include the means by which the public can access the electronic meeting and shall state a location for the public to view or hear the meeting.

All references above to “Board” shall be deemed to refer to Town advisory boards or committees and their members, and references to the “Town Clerk” shall be deemed to refer to the Secretary or the advisory board or committee, for purposes of establishing rules to govern their electronic meetings in a declared State of Emergency.

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<sup>2</sup> N.C.G.S § 166A-19.24(c)-(d).

<sup>3</sup> N.C.G.S § 166A-19.24(c).

<sup>4</sup> N.C.G.S. § 166A-19.24(d).

### **Rule 3. Organizational Meeting**

On the date and at the time of the first regular meeting in December following a general election in which Board members are elected, or at an earlier date, if any, set by the incumbent Board, the newly elected members shall take and subscribe the oath of office as the first order of new business. As the second order of new business, the Board shall elect a mayor pro tempore. This organizational meeting shall not be held before the municipal election results are officially determined, certified, and published in accordance with Subchapter IX of Chapter 163 of the North Carolina General Statutes. If there is business to be concluded by the incumbent Board prior to the newly elected board being sworn in, it should be concluded no later than 6pm on the date of the Organizational Meeting.

### **Rule 4. Agenda**

(A) Proposed Agenda. The Town Manager shall cause a proposed agenda to be prepared for each meeting. A request to have an item of business placed on the agenda must be received at least four working days before the meeting. A Board member may, by a request made in writing to the Manager at least four working days before the meeting, have an item placed on the proposed agenda provided the request is joined by at least one other Board member. Once an item is added to the proposed agenda by two or more Board members, it cannot be removed prior to the meeting except by consent of both Board members that added it to the proposed agenda. Any agenda item may be removed during the Adoption of the Agenda as provided by Rule 4, Item B. An agenda package shall be prepared that includes, for each item of business placed on the proposed agenda, as much background information on the subject as is available and feasible to reproduce. Each Board member shall receive a copy of the proposed agenda and the agenda package and they shall be available for public inspection and distribution or copying when they are distributed to the Board members.

(B) Adoption of the Agenda. As its sixth order of business at each meeting, the Board shall, as specified in Rule 6, discuss and revise the proposed agenda and adopt an agenda for the meeting. Notwithstanding the foregoing, the mayor may allow the adjustment to the agenda to occur earlier than the sixth order of business at any meeting of the Board without the necessity for suspension of the Rules of Procedure.

The Board may by majority vote add items to or subtract from the proposed agenda, except that (a) the Board may not subtract items from the proposed agenda stated in the notice of a special meeting called by the mayor, mayor pro tempore, or two Board members, unless those calling the meeting consent to the deletion, (b) the Board may not add items to the proposed agenda stated in the notice of a special meeting called by the mayor, mayor pro tempore, or two Board members, unless all members are present, or those who are absent sign a written waiver of notice, and (c) only business connected with the emergency may be considered at an emergency meeting. The Board may add items to the proposed agenda of a special meeting only if it determines in good faith at the meeting that it is essential to discuss or act on the item immediately.

(C) Consent Agenda. The Board may designate a part of the agenda as the "consent agenda." Approval of minutes and other items that are judged to be non-controversial and routine shall be placed on the consent agenda by those preparing the proposed

agenda. The Town Manager shall have the authority to place any item on the consent agenda as part of the proposed agenda. Any member may remove an item from the consent agenda and place it on the regular agenda while the agenda is being discussed and revised prior to its adoption at the beginning of the meeting. All items on the consent agenda shall be voted on and adopted by a single motion, with the minutes reflecting the motion and vote on each item.

#### **Rule 5. Public Address to the Board**

Any individual or group who wishes to address the Board at the public comment item, or during a public hearing, shall sign a request to speak prior to the meeting. This shall not limit the discretion of the Board to call upon individuals to address or respond to the Board during debate on a matter. The presiding officer or the Board may impose time limitations on all speakers. The Board may adopt rules to govern the public comments portion of an agenda including but not limited to, rules (a) fixing the maximum time allotted to each speaker; (b) providing for the designation of spokespersons for groups of persons supporting or opposing the same positions; (c) providing for the selection of delegates from groups of persons supporting or opposing the same positions when the number of persons wishing to attend the hearing exceeds the capacity of the hall (so long as arrangements are made, in the case of hearings subject to the open meetings law, for those excluded from the hall to listen to the hearing); and (d) providing for the maintenance of order and decorum in the conduct of the public comments.

#### **Rule 6. Order of Business**

Items shall be placed on the agenda according to the order of business. The usual order of business for each regular meeting shall be as follows:

- I. Call to Order
- II. Invocation/Moment of Silence
- III. Pledge of Allegiance
- IV. Mayor and Commissioner Reports/Staff Questions
- V. Public Comments, Requests, or Presentations
- VI. Changes to Proposed Agenda and Adoption of Agenda
- VII. Public Hearings
- VIII. Other Business
- IX. Consent Agenda
- X. Closing Comments
- XI. Adjournment

By general consensus of the Board, or at the discretion of the Mayor, items may be considered out of order.

#### **Rule 7. Office of the Mayor**

The mayor shall preside at all meetings of the Board but shall have the right to vote only when there is a tie. In order to address the Board, a member must be recognized by the mayor.

The mayor or other presiding officer shall have the following powers:

- (a) To rule motions in or out of order including any motion patently offered for obstructive or dilatory purposes;
- (b) To determine whether a speaker has gone beyond reasonable standards of courtesy in his or her remarks and to entertain and rule on objections from other members on this ground;
- (c) To entertain and answer questions of parliamentary law or procedure;
- (d) To call a brief recess at any time;
- (e) To adjourn in an emergency.

A decision by the presiding officer under (a), (b), or (c) may be appealed to the Board upon motion of any member, pursuant to Rule 18(b), Motion 1. Such a motion is in order immediately after a decision under (a), (b), or (c) is announced and at no other time. The member making the motion need not be recognized by the presiding officer, and the motion if timely made may not be ruled out of order.

**Rule 8. Office of Mayor Pro Tempore**

At the organizational meeting, the Board shall elect from among its members a mayor pro tempore to serve at the Board’s pleasure. A Board member who serves as mayor pro tempore shall be entitled to vote on all matters and shall be considered a Board member for all purposes, including the determination of whether a quorum is present. In the mayor’s absence, the mayor Pro Tempore shall preside over Board meetings with all of the powers specified for the mayor. Additionally, the Board may confer on the mayor pro tempore any of the mayor’s powers and duties. If the mayor should become physically or mentally unable to perform the duties of his or her office, the Board may by majority vote declare that the mayor is incapacitated and confer any of the mayor’s powers and duties on the mayor pro tempore. When a mayor declares that he or she is no longer incapacitated, and a majority of the Board concurs, the mayor shall resume the exercise of his or her powers and duties. If both the mayor and mayor pro tempore are absent from a meeting, the Board may elect from among its members a temporary chairman to preside at the meeting with all of the powers specified for the mayor.

**Rule 9. When the Presiding Officer is in Active Debate**

If the mayor or other presiding officer becomes actively engaged in debate on a particular proposal, he or she may, but is not required to, designate another Board member to preside over the debate. The mayor or other presiding officer shall resume presiding as soon as action on the matter is concluded.

**Rule 10. Action by the Board**

- A. The Board shall proceed by motion, except as otherwise provided for in Rule 4 and in Rule 31. Any member may make a motion. The mayor may, in his/her discretion, allow informal discussion about a matter before the Board, prior to a motion being placed on the floor by a Board member.
- B. Except where expressly required by law, the adoption of a Resolution shall not be required for any action by the Board or for the exercise of any power or authority by the Board, including but not limited to approval of contracts and adoption of ordinances.

**Rule 11. Second Required**

A motion shall require a second unless otherwise required by law.

**Rule 12. One Motion at a Time**

A member may make only one motion at a time.

**Rule 13. Substantive Motions**

A substantive motion is out of order while another substantive motion is pending.

**Rule 14. Adoption by Majority Vote**

A motion shall be adopted by a majority of the votes cast, a quorum as defined in Rule 27 being present, unless otherwise required by these rules or the laws of North Carolina. A majority is more than half of the votes cast, a quorum being present, except when a larger majority is otherwise required by these Rules or by law.

**Rule 15. Voting by Written Ballot**

The Board may choose by majority vote to use written ballots in voting on a motion. Such ballots shall be signed, and the minutes of the Board shall show the vote of each member voting. The ballots shall be available for public inspection in the office of the Town Clerk immediately following the meeting at which the vote took place and until the minutes of that meeting are approved, at which time the ballots may be destroyed. Voting by secret ballot is prohibited.

**Rule 16. Debate**

The mayor shall state the motion and then open the floor to debate on it. The mayor shall preside over the debate according to the following general principles:

- (a) The maker of the motion is entitled to speak first;
- (b) A member who has not spoken on the issue shall be recognized before someone who has already spoken;
- (c) To the extent possible, the debate shall alternate between proponents and opponents of the measure.

**Rule 17. Ratification of Actions**

To the extent permitted by law, the Board may ratify any previous actions taken by the Board to correct procedural or other irregularities, or for such other reasons deemed appropriate by the Board in its discretion. The Board may also ratify actions taken on its behalf, but without its prior approval. A motion to ratify is a substantive motion.

**Rule 18. Procedural Motions**

(A) Certain Motions Allowed. In addition to substantive proposals, only the following procedural motions, and no others, are in order. Unless otherwise noted, each motion is debatable, may be amended, and requires a majority of the votes cast, a quorum being present, for adoption. Procedural motions are in order while a substantive motion is pending and at other times, except as otherwise noted.

(B) Order of Priority of Motions. In order of priority (if applicable), the procedural motions are:

Motion 1. To Appeal a Procedural Ruling of the Presiding Officer. A decision of the presiding officer ruling a motion in or out of order, determining whether a speaker has gone beyond reasonable standards of courtesy in his or her remarks, or entertaining and answering a question of parliamentary law or procedures may be appealed to the Board, as specified in Rule 7. This appeal is in order immediately after such a decision is announced and at no other time. The member making the motion need not be recognized by the presiding officer and the motion, if timely made, may not be ruled out of order.

Motion 2A. To Adjourn. This motion may be made only at the conclusion of Board consideration of a pending substantive matter; it may not interrupt deliberation of a pending matter. A motion to recess (or adjourn) to a time and place certain shall also comply with the requirements of Rule 2(c).

Motion 2B. To Adjourn or Recess to a Time Certain.

Motion 3. To Take a Brief Recess.

Motion 4. Call to Follow the Agenda. The motion must be made at the first reasonable opportunity, or the right to make it is waived for the out-of-order item in question.

Motion 5. To Suspend the Rules. The Board may not suspend provisions of the rules that state requirements imposed by law on the Board. For adoption, the motion requires a vote equal to two-thirds of the actual membership of the Board, excluding the mayor, unless he or she may vote in all cases, and vacant seats.

Motion 6. To Go into Closed Session. The Board may go into closed session only for one or more of the permissible purposes listed in G.S. § 143-318.11(a). The motion to go into closed session shall cite one or more of these purposes and shall be adopted at an open meeting. A motion based on G.S. § 143-318.11(a)(1) shall also state the name or citation of the law that renders the information to be discussed privileged or confidential. A motion based on G.S. § 143-318(a)(3) shall identify the parties in each existing lawsuit concerning which the Board expects to receive advice during the closed session, if in fact such advice is to be received.

Motion 7. To Leave Closed Session.

Motion 8. To Divide a Complex Motion and Consider it by Paragraph. The motion is in order whenever a member wishes to consider and vote on subparts of a complex motion separately.

Motion 9. To Defer Consideration. The Board may defer a substantive motion for later consideration at an unspecified time. A substantive motion the consideration of which has been deferred expires (100) days thereafter unless a motion to revive

consideration is adopted. If consideration of a motion has been deferred, a new motion with the same effect cannot be introduced while the deferred motion remains pending (has not expired). A member who wishes to revisit the matter during that time must take action to revive consideration of the original motion (Rule 18(b), Motion 14), or else move to suspend the rules (Rule 18(b), Motion 5).

Motion 10. Motion for the Previous Question. The motion is not in order until there have been at least 10 minutes of debate, and every member has had an opportunity to speak once.

Motion 11. To Postpone to a Certain Time or Day. If consideration of a motion has been postponed, a new motion with the same effect cannot be introduced while the postponed motion remains pending. A member who wishes to revisit the matter must either wait until the specified time, or move to suspend the rules (Rule 18(b), Motion 5).

Motion 12. To Refer a Motion to a Committee. The Board may vote to refer a substantive motion to a committee for its study and recommendations. Sixty days or more after a substantive motion has been referred to a committee, the introducer of the substantive motion may compel consideration of the measure by the entire Board, whether or not the committee has reported the matter to the Board.

Motion 13. To Amend.

(a) An amendment to a motion must be pertinent to the subject matter of the motion. An amendment is improper if adoption of the motion with that amendment added would have the same effect as rejection of the original motion.

(b) A motion may be amended, and that amendment may be amended, but no further amendments may be made until the last-offered amendment is disposed of by a vote.

(c) A proposal to substitute completely different wording for a motion or an amendment shall be treated as a motion to amend-

Motion 14. To Revive Consideration. The Board may vote to revive consideration of any substantive motion earlier deferred by adoption of Motion 9 of Rule 18(b). The motion is in order at any time within (100) days after the day of a vote to defer consideration. A substantive motion on which consideration has been deferred expires (100) days after the deferral unless a motion to revive consideration is adopted.

Motion 15. To Reconsider. The Board may vote to reconsider its action on a matter. The motion to do so must be made by a member who voted with the prevailing side (the majority side except in the case of a tie; in that case the "nos" prevail) and at the meeting during which the original vote was taken, including any continuation of that meeting through recess (or adjournment) to a time and place certain. The motion cannot interrupt deliberation on a pending matter, but is in order at any time before final adjournment of the meeting.

Motion 16. To Rescind or Repeal. The Board may vote to rescind actions it has previously taken or to repeal items that it has previously adopted. The motion is not in order if rescission or repeal of an action is forbidden by law.

Motion 17. To Prevent Reintroduction for Six Months. The motion shall be in order immediately following the defeat of a substantive motion and at no other time. The motion requires for adoption a vote equal to two-thirds of the actual membership of the Board excluding the mayor, unless he or she may vote in all cases, and vacant seats. If adopted, the restrictions imposed by the motion remains in effect for six months or until the next organizational meeting of the Board, whichever occurs first.

### **Rule 19. Renewal of Motion**

A motion that is defeated may be renewed at any later meeting unless a motion to prevent reintroduction has been adopted.

### **Rule 20. Withdrawal of Motion**

A motion may be withdrawn by the introducer at any time before it is amended or before the presiding officer puts the motion to a vote, whichever occurs first.

### **Rule 21. Duty to Vote**

**(a) Duty to Vote.** Every Board member must vote except when excused from voting as provided by this rule.

**(b) Grounds for Excusal.** A member may be excused from voting on a matter involving the member's own financial interest or official conduct, though not if the proposal in question is one to alter the compensation or allowances paid to Board members. Members may also be excused from voting when prohibited from voting under G.S. § 14-234 (contract providing direct benefit to member), G.S. § 160D-109(a) (legislative zoning decision likely to have a direct, substantial, and readily identifiable financial impact on member), or G.S. § 160D-109(d) (member's participation in quasi-judicial decision would violate affected person's right to an impartial decision maker). Questions about whether a basis for excusal exists should be directed to the Town attorney.

### **(c) Procedure for Excusal.**

- (1) At member's request. Upon being recognized at a duly called meeting of the Board, a member who wishes to be excused from voting shall so inform the mayor, who must then submit the matter to a vote of the remaining members present. If a majority of the remaining members present vote to excuse the member, the member is excused from voting on the matter.
- (2) On the Board's initiative. Even when a member has not asked to be excused from voting on a matter, a majority of the remaining Board members present may by motion and vote excuse the member from voting if grounds for doing so exist under paragraph (b).

**(d) Consequence of Non-Excused Failure to Vote.** Except as specified in paragraph (e), if a member who has not been excused from voting fails to vote on a

matter, the member's failure to vote shall be recorded as an affirmative vote, provided

- (1) the member is physically present in the Board chamber or
- (2) the member has physically withdrawn from the meeting without being excused by majority vote of the remaining members present.

**(e) Failure to Vote on Certain Zoning Matters.** A member's unexcused failure to vote shall not be recorded as an affirmative vote if the motion concerns a proposal to amend, supplement, or repeal a zoning ordinance. Instead, the member's unexcused failure to vote shall be recorded as an abstention.

## **Rule 22. Introduction of Ordinances**

A proposed ordinance shall be deemed to be introduced on the date the subject matter is first voted on by the Board. The Board votes on the subject matter of a proposed ordinance when it votes on whether to adopt or make changes to the proposed ordinance.

## **Rule 23. Adoption of Ordinances and Approval of Contracts**

(A) Generally. An affirmative vote equal to a majority of all the members of the Board not excused from voting on the question in issue (including the mayor's vote in case of an equal division) shall be required to adopt an ordinance, to take any action that has the effect of an ordinance, or to make, ratify, or authorize any contract on behalf of the Town. In addition, no ordinance or action that has the effect of an ordinance, except an ordinance on which a public hearing must be held pursuant to G.S. § 160D-601 before the ordinance may be adopted, may be finally adopted on the date on which it is introduced except by an affirmative vote equal to or greater than two-thirds of all the actual membership of the Board, excluding vacant seats, and not including the mayor unless he or she has the right to vote on all questions before the Board. No ordinance shall be adopted unless it has been reduced to writing before a vote on adoption is taken.

(B) **Amendment or Repeal of Ordinances.** The same voting requirements that govern the adoption of a proposed ordinance shall apply to the amendment or repeal of such ordinance.

## **Rule 24. Adoption of the Budget Ordinance**

Notwithstanding the provisions of any Town Charter, general law, or local act:

1. Any action with respect to the adoption or amendment of the budget ordinance may be taken at any regular or special meeting of the Board by a simple majority of those present and voting, a quorum being present;
2. No action taken with respect to the adoption or amendment of the budget ordinance need be published or is subject to any other procedural requirement governing the adoption of ordinances or resolutions by the Board; and

3. The adoption and amendment of the budget ordinance and the levy of taxes in the budget ordinance are not subject to the provisions of any Town Charter or local act concerning initiative or referendum.

During the period beginning with the submission of the budget to the Board and ending with the adoption of the budget ordinance, the Board may hold any special meetings that may be necessary to complete its work on the budget ordinance. Except for the notice requirements of the open meeting law, which continue to apply, no provision of law concerning the call of special meetings applies during that period so long as: (a) each member of the Board has actual notice of each special meeting called for the purpose of considering the budget, and (b) no business other than consideration of the budget is taken up. This rule does not allow, and may not be construed to allow, the holding of closed meetings or executive sessions by the Board if it is otherwise prohibited by law from holding such a meeting or session.

### **Rule 25. Quasi-judicial (Evidentiary) Hearings**

All quasi-judicial (evidentiary) hearings of the Board shall be conducted in accordance with applicable law and in accordance with the procedures provided by this Rule. The Mayor shall have the authority to determine the conduct, rules and procedure of all quasi-judicial (evidentiary) hearings coming before the Board not addressed by this Rule, whether generally applicable to all quasi-judicial hearings or to a particular hearing. The mayor shall also have the authority to rule on the admissibility of evidence and all other procedural issues arising as part of a quasi-judicial (evidentiary) hearing. Notwithstanding the foregoing the mayor may choose to require any procedural or evidentiary issue arising at a quasi-judicial (evidentiary) hearing to be acted upon by the Board.

Appearance of the Parties. Any party may appear in person or by agent or by attorney at the hearing. The Board shall not permit the unauthorized practice of law by a non-lawyer or not properly licensed lawyer at the hearing.

1. Order of Business for the Hearing. The order of business for hearing shall be as follows:
  - a. The mayor, or such other person as the mayor may direct, shall give an opening statement regarding the nature of the hearing and the process to be followed.
  - b. The mayor, or such other person as the mayor may direct, shall poll all Board members participating regarding any ex parte communications, bias, or conflicts of interest.
  - c. All participants in the hearing shall be identified. Issues regarding standing, permitted level of participation of the participants and other jurisdictional issues shall be addressed. Only persons who have standing will be recognized as a party to the hearing. Other interested persons who do not have standing may testify, but will not be allowed to offer opening or closing statements, call witnesses, or cross examine witnesses.
  - d. All persons who will testify must be placed under oath before testifying.

- e. Town staff shall present an overview of the matter, including a summary of the facts and relevant ordinance provisions. Staff shall also present the application, supporting materials, staff report, and any other written materials received and distributed prior to the hearing for introduction into the hearing record.
- f. The Board shall permit the parties (not other interested persons) to offer opening statements.
- g. The party(ies) bearing the burden of proof or production shall present evidence in support of the relief requested from the Board.
- h. The opposing party(ies) shall present evidence in support of their position to the Board.
- i. Other interested persons who have been identified may present relevant evidence.
- j. The party(ies) bearing the burden of proof or production may present rebuttal evidence. Surrebuttal may be permitted at the Board's discretion. Only parties (not other interested persons) will be permitted to introduce rebuttal and surrebuttal evidence.
- k. Closing statements and arguments may be made by parties to the case.
- l. The Board shall deliberate on and make a determination of the case.

## 2. Rules Governing Conduct of the Hearing.

- a. Witness may be called and factual evidence may be submitted.
- b. The mayor must recognize witnesses before they are heard and confirm that they are under oath.
- c. The mayor shall allow all witnesses to be heard, but may limited testimony or evidence that is irrelevant, repetitive, incompetent, hearsay, or inadmissible opinion testimony.
- d. The mayor shall allow the parties to the case to make direct and cross-examination of witnesses and to present rebuttal evidence.
- e. The mayor may establish reasonable procedures to assure that the hearing is conducted in a fair, impartial and efficient manner.
- f. Board members may ask questions of any witness.
- g. The Board shall not be limited to such evidence as would be admissible in a court of law (except such evidence requiring expert opinion), but all decisions must be based on competent, material, and substantial evidence properly placed in the hearing record.
- h. Board members are discouraged from viewing the premises at issue before the hearing, but if they do so, any key facts observed by members shall be disclosed at the hearing and made part of the record.
- i. Upon completion of the presentation of evidence, Board members shall discuss the case among themselves in open session and may recall any witnesses to ask further questions and otherwise deliberate among themselves.

- j. Board members shall not discuss the case or give opinions on the evidence until presentation of the case is completed.
3. Rehearings. An application for rehearing may be made to the Board if permitted by the ordinance at issue. Such application must contain a statement of alleged facts that constitute a substantial change in facts or conditions of the matter. The Board shall consider the application (without argument from the applicant) and determine whether the facts alleged, if true, would constitute a substantial change in circumstances or conditions. If the Board determines that such facts, if true would not constitute a substantial change in circumstances or conditions, the Board shall deny the application. If the Board decides that such alleged facts may constitute a substantial change in circumstances or conditions, the Board shall hold a brief evidentiary hearing, allowing participation by all parties participating in the underlying hearing. No new parties may be allowed to participate. If the Board decides that the facts and conditions are true and constitute a substantial change in circumstances and conditions, the Board shall hold a new evidentiary hearing as if the matter were a new application.
4. Decisions. The Board shall make a written decision within a reasonable period of time from completion of the evidentiary hearing. The required majority to make a decision shall such as is required by law or ordinance for the matter being considered by the Board. A motion to grant a special use permit shall include such conditions as are desired to be made a part of the decision. All decisions shall be reduced to writing, and such contain such findings of fact and conclusions of law sufficient to support the decision made by the Board. Decisions shall be effective the date the written decision is filed with the Clerk to the Board, unless otherwise provided by law or ordinance.

#### **Rule 26. Closed Sessions**

The Board may hold closed sessions as provided by law. The Board shall only commence a closed session after a motion to go into closed session has been made and adopted during an open meeting. The motion shall state the purpose of the closed session. If the motion is based on G.S. § 143-318.11(a)(1) (closed session to prevent the disclosure of privileged or confidential information or information that is not considered a public record), it must also state the name or citation of the law that renders the information to be discussed privileged or confidential. If the motion is based on G.S. § 143-318.11(a)(3) (consultation with attorney; handling or settlement of claims, judicial actions, or administrative procedures), it must identify the parties in any existing lawsuits concerning which the public body expects to receive advice during the closed session. The motion to go into closed session must be approved by the vote of a majority of those present and voting. The Board shall terminate the closed session by a majority vote.

Only those actions authorized by statute may be taken in closed session. A motion to adjourn or recess shall not be in order during a closed session.

**Rule 27. Quorum**

A majority of the actual membership of the Board plus the mayor, excluding vacant seats, shall constitute a quorum. A majority is more than half. A member who has withdrawn from a meeting without being excused by majority vote of the remaining members present shall be counted as present for purposes of determining whether or not a quorum is present.

**Rule 28. Public Hearings**

Public hearings required by law or deemed advisable by the Board shall be called by motion or resolution of the Board that sets forth the subject, date, place and time of the hearing. The mayor may limit the length of time allotted for each speaker. The Board may adopt rules to govern a public hearing, including but not limited to, rules (a) fixing the maximum time allotted to each speaker; (b) providing for the designation of spokespersons for groups of persons supporting or opposing the same positions; (c) providing for the selection of delegates from groups of persons supporting or opposing the same positions when the number of persons wishing to attend the hearing exceeds the capacity of the hall (so long as arrangements are made, in the case of hearings subject to the open meetings law, for those excluded from the hall to listen to the hearing); and (d) providing for the maintenance of order and decorum in the conduct of the hearing.

All notice and other requirements of the open meetings law applicable to Board meetings shall also apply to public hearings at which a majority of the Board is present; such a hearing is considered to be a part of a regular or special meeting of the Board. These requirements also apply to hearings conducted by appointed or elected committees of the Board, if a majority of the committee is present. A public hearing, for which any notice required by the open meetings law or other provisions of law has been given may be continued to a time and place certain without further advertisement, except that notice of the continuance shall be posted on the Town's website prior to the time that the public hearing shall reconvene, preferably 48 hours in advance. The requirements of Rule 2(c) shall be followed in continuing a hearing at which a majority of the Board is present.

The Board may vote to delegate to Town staff members, as appropriate, the authority to schedule, call, and give notice of public hearings required by law or the Board. The Board shall provide adequate guidelines to assist staff members in fulfilling this responsibility, and it shall not delegate the responsibility in cases where the Board itself is required by law to call, schedule, or give notice of the hearing.

At the time appointed for the hearing, the mayor or his or her designee shall call the hearing to order and then preside over it. When the allotted time expires or when no one wishes to speak who has not done so, the presiding officer shall declare the hearing ended.

Notwithstanding the foregoing, during a duly declared State of Emergency within the municipal limits of the Town of Huntersville, and for thirty (30) days following the

termination of the State of Emergency, a public hearing may be called by the Town Manager by signing a Notice of Public Hearing.

**Rule 29. Quorum at Public Hearings**

A quorum of the Board shall be required at all public hearings required by state law. If a quorum is not present at such a hearing, the hearing shall be continued until the next regular Board meeting without further advertisement.

**Rule 30. Minutes**

Full and accurate minutes of the Board proceedings, including closed sessions, shall be kept. The Board shall also keep a general account of any closed session so that a person not in attendance would have a reasonable understanding of what transpired. These minutes and general accounts shall be open to inspection of the public, except as otherwise provided in this rule. The exact wording of each motion and the results of each vote shall be recorded in the minutes, and on the request of any member of the Board, the “ayes” and “nos” upon any question shall be taken. Members’ and other persons’ comments may be included in the minutes if the Board approves.

Minutes and general accounts of closed sessions shall be deemed sealed until unsealed by action of the Board. Such sealed minutes and general accounts may be withheld from public inspection so long as public inspection would frustrate the purpose of the closed session.

**Rule 31. Appointments**

The Board may consider and make appointments to other bodies, including its own committees, if any, only in open session. The Board may not consider or fill a vacancy among its own membership except in open session.

The mayor shall not have a right to vote on appointments that come before the Board, except to break a tie vote.

Rather than proceeding by motion, the Board shall use the following procedure to make appointments to various other boards and offices: The mayor shall open the floor for nominations, whereupon the names of possible appointees may be put forward by the Board members. Each Board member shall be permitted to nominate the same number of candidates as there are vacancies to be filled. At the close of the nominations, the Clerk shall call the roll of the members, and each member shall cast his or her vote(s). Each member shall be permitted to vote for as many candidates as there are vacancies to be filled.

Votes from a majority of the members voting shall be required for appointment to each vacant position. During such voting, a member may cast all of his or her votes or fewer than all of them, but he or she shall not cast more than one vote for a single candidate. Where deemed appropriate by the Mayor, the vacant positions may be filled one seat at a time, with each Board member being allowed to nominate and vote for one candidate at a time. If no candidate receives a majority vote, the appointment may be rolled to the next regular meeting of the Board. The incumbent shall continue to serve until a successor is appointed.

### **Rule 32. Committees and Boards**

(A) Establishment and Appointment. The Board or the mayor may, if the mayor has delegated that power by the Board, establish and appoint members for such temporary and standing Town committees and boards as are needed to help carry on the work of Town government. Any specific provisions of law relating to particular committees and boards shall be followed. Board of Commissioner members appointed to a board or committee shall be deemed to be serving on such board of committee in an ex officio capacity.

(B) Open Meetings Law. The requirements of the open meetings law shall apply to all elected or appointed authorities, boards, commissions, councils, or other bodies of the Town that are composed of two or more members and that exercise or are authorized to exercise legislative, policy-making, quasi-judicial, administrative, or advisory functions. However, the law's requirements shall not apply to a meeting solely among the Town's professional staff.

### **Rule 33. Amendment of the Rules**

These rules may be amended at any regular meeting or at any properly called special meeting that includes amendment of the rules as one of the stated purposes of the meeting, so long as the amendment is consistent with the Town Charter, general law, and generally accepted principles of parliamentary procedure. Adoption of an amendment shall require an affirmative vote equal to or greater than two-thirds of all the actual membership of the Board, including vacant seats, and not including the mayor unless he or she has the right to vote on all questions before the Board.

### **Rule 34. Remote Participation in Meetings.<sup>5</sup>**

A member who does not attend a meeting may participate in the meeting by electronic means, but only for the limited purposes of listening and taking part in debate. The member may neither be counted toward a quorum nor vote on any matter before the Board. Electronic means may include telephone, Skype, FaceTime, or other similar methods of participation.

### **Rule 35. Broadcasting and Recording Meetings.**

**(a) Right to Broadcast and Record.** Any person may photograph, film, tape-record, or otherwise reproduce any part of a Town Board of Commissioner meeting that must take place in open session. Except as provided in paragraph (c) of this rule, any radio or television station may broadcast any such part of a Board meeting.

**(b) Advance Notice.** Any radio or television station that plans to broadcast any portion of a Board meeting shall so notify the Town Manager no later than twenty-four hours before the meeting. The failure to provide notice is not, by itself, grounds for preventing the broadcast of a Board meeting.

**(c) Equipment Placement.** The Town Manager may regulate the placement and use of camera or recording equipment in order to prevent undue interference with a Board

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<sup>5</sup> This rule is not to be confused with Rule 2(D). Rule 2(D) only applies in the case of a declared State of Emergency. This rule applies in all other circumstances.

meeting, so long as he or she allows the equipment to be placed where it can carry out its intended function. If the Town Manager determines in good faith that the equipment and personnel necessary to broadcast, photograph, or record the meeting cannot be accommodated without undue interference to the meeting, and an adequate alternative meeting room is not readily available, the Town Manager may require the pooling of the equipment and the personnel operating it.

**(d) Alternative Meeting Site.** If the news media request an alternative meeting site to accommodate news coverage, and the Board grants the request, the news media making the request shall pay the costs incurred by the Town in securing an alternative meeting site.

**Rule 36. Reference to Robert's Rules of Order Newly Revised**

To the extent not provided for in these rules, and to the extent it does not conflict with North Carolina law or with the spirit of these rules, the Board shall refer to *Robert's Rules of Order Newly Revised*, to answer unresolved procedural questions.