

CHAPTER 2

PROCEDURES OF GOVERNING BODY

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Article I

MEETINGS

Section 2-1 Regular Meetings

The Board shall hold a regular meeting on the first, second, third and fourth Tuesday of each month, unless that day is a legal holiday. The meeting shall be held at the Town Hall and shall begin at 7:30 p.m. (Amend. 1/12/82, 3/26/85))

Section 2-2 Special Meetings

(a) A special meeting is any non-emergency meeting of the Board held at any time other than that specified in Section 2-1.

(b) The mayor, or the mayor pro-tempore, or any two members of the Board may at any time call a special meeting by signing a written statement stating the time and place of the meeting.

(c) Notice of the meeting shall be given to Board members as provided in this subsection. Preferably forty eight hours, but not less than six hours before the meeting:

- (1) Written notice shall be delivered personally to each Board member; or
- (2) If notice cannot be personally delivered, notice may be left at the Board member's usual place of dwelling. In this event, the town clerk shall make every reasonable effort to contact the Board member by telephone.

(d) Special meetings may also be held when all Board members are present and consent thereto or when those not present have signed a written waiver of notice, provided that the notice to the media required by subsection (e) is given.

(e) The town clerk shall give notice of a special meeting to the public and the media, at least forty eight hours before the meeting, by:

- (1) Posting a notice of the time and place of the meeting on the bulletin board located at the entrance of the Town Hall; and
- (2) Mailing or delivering notice of the meeting to each of the media who has requested it in accordance with the Opening Meetings Law.
- (3) Mailing or delivering notice of meeting to any person who has filed with the clerk a written request for it in accordance with the Open Meetings Law.

(f) Only those items of business specified in the notice may be transacted at a special meeting unless all members are present or have signed a written waiver of notice.

Section 2-3 Emergency Meetings

(a) An emergency meeting is a meeting of the Board called because of generally unexpected circumstances that require immediate consideration.

(b) The mayor, the mayor pro-tempore, or any two members of the Board may at any time call an emergency meeting by signing a written statement stating the time and place of the meeting and the subjects to be considered.

(c) Notice of the meeting shall be given to Board members in the same manner as notice of special meetings.

(d) Emergency meetings may also be held when all Board members are present and consent thereto or when those not present have signed a written waiver of notice, provided that the notice to the media required by subsection (e) is given.

(e) The town clerk shall give notice of an emergency meeting to each of the media who has requested it in accordance with the Open Meetings Law. This notice shall be given either by telephone or by the same method used to notify Board members and shall be given immediately after the notice has been given to those members.

(f) Only business connected with the emergency may be transacted at an emergency meeting.

Section 2-4 Continued or Recessed Meetings

(a) By majority vote the Board may continue or recess any regular, special or emergency meeting to any place and time specified in the motion to continue or recess the meeting.

(b) No further notice need be given of any continued or recessed session of a meeting set in accordance with subsection (a).

Section 2-5 Organizational Meetings

(a) At the first regular meeting in December following a general election in which Board members or the mayor are elected, the newly elected members and the mayor shall, as the first order of business, take and subscribe the oath of office.

(b) The oath of office shall be that prescribed by Article VI, Section 7 of the North Carolina Constitution, as set forth in Section 3-35 of this Code.

(c) Also at the organizational meeting, the Board shall elect from its members a mayor pro-tempore to serve at the Board's pleasure. The mayor pro-tempore shall exercise any of the powers and duties of the mayor during the mayor's absence or incapacitation, as provided in G.S. 160A-70.

Article II

GENERAL MEETING PROCEDURES

Section 2-8 Agenda

(a) Preparation. The manager shall prepare the agenda for the meeting.

(b) Requests to be placed on agenda. A request to have any item of business placed on the agenda must be received by the manager in sufficient time so that the agenda may be printed and distributed in accordance with subsection (e) of this section, and to this end the manager may establish an appropriate deadline to receive such requests.

(c) Requests to address Board. Any individual or group that wishes to address the Board shall make a request to be on the agenda to the manager. However, the Board shall determine at the meeting whether the individual or group will be heard by the Board.

(d) Contents. The agenda shall include, for each item of business placed on it, as much background information on the subject as is available and feasible to reproduce. Whenever possible, a copy of all proposed ordinances shall be attached to the agenda and distributed simultaneously.

(e) Inspection and distribution. A copy of the agenda and attachments shall be available for public inspection as soon as they are completed. The manager shall mail or deliver a copy of the agenda and attachments to each Board member in sufficient time to ensure that they are received prior to the meeting. Additional copies of the agenda may be available for the press and interested members of the public.

(f) Additions. The Board may, by majority vote of the Board membership, add an item of business that is not on the agenda. Unless otherwise specified by the Board, additions to the agenda shall be taken up at the conclusion of all other regular business.

Section 2-9 Order of Business

(a) Items of business shall be taken up at a meeting in the order that they appear on the agenda, except as provided in subsection (d) of this section.

(b) Items shall be placed on the agenda according to the "Order of Business" established by the Board upon recommendation of the manager.

(c) In establishing the "Order of Business", the Board may authorize broad categories of business to be included as agenda items, such as "members of the public wishing to be heard", or "matters by the manager" or "matters by the attorney".

(d) Items may be considered out of order by consent of all members present or by majority vote upon a motion.

Section 2-10 Presiding Officer

(a) The mayor shall preside at meetings of the Board, except as provided in subsection (c) of this section. A member must be recognized by the mayor in order to address the Board.

(b) As presiding officer the mayor shall have the following powers, in addition to those conferred elsewhere in this chapter.

- (1) To rule motions in or out of order, including the right to rule out of order any motion patently offered for obstructive or dilatory purposes;
- (2) To determine whether a speaker has gone beyond reasonable standards of courtesy in his remarks and to entertain and rule upon objections from other members on this ground;
- (3) To entertain and answer questions of parliamentary law or procedure, subject to being overruled by a two-thirds vote of the membership of the Board;
- (4) To call a brief recess at any time;
- (5) To adjourn in the event of an emergency.

(c) If the mayor becomes actively engaged in debate of a particular proposal, he may delegate the duty to preside over the debate to the mayor pro-tempore or to any other member of the Board who is not so engaged and who acquiesces in the delegation.

The temporary chairman may only preside over the debate and may not participate in it; however he does not forfeit his right to vote on the issue by acting as temporary chairman. The mayor shall resume the duty to preside as soon as action upon the matter is concluded.

Section 2-11 Quorum

A majority of the actual membership of the Board, excluding vacant seats, shall constitute a quorum. A quorum is necessary for the Board to take any official action. 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 a quorum is present.

Section 2-12 Taking Official Action

(a) The Board shall proceed by motion. A motion, when duly seconded, brings the matter before the Board for its consideration.

(b) A motion may be withdrawn by the introducer at any time prior to a vote if the member who seconded the motion concurs.

(c) Subject to Section 2-15 and other provisions of law, official action of the Board shall be by majority vote.

Section 2-13 Debate

Once a motion has been stated and seconded, the mayor shall open the floor to debate upon it. The mayor shall preside over the debate according to the following general principles:

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

Section 2-14 Voting

(a) Once a member is physically present at a Board meeting, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been excused from voting in accordance with subsection (b) or has been allowed to withdraw from the meeting in accordance with subsection (c).

(b) A member may be excused from voting on a particular issue by majority vote of the remaining members present if the matter at issue involves that member's own financial interest or official conduct.

(c) A member may be allowed to withdraw from the entire remainder of a meeting by majority vote of the remaining members present for any good and sufficient reason other than the member's desire to avoid voting on matters to be considered at that meeting.

(d) A motion to allow a member to be excused from voting or excused from the remainder of the meeting is only in order if made by or at the initiative of the member directly affected.

(e) A roll call vote shall be taken upon the request of any member.

(f) When this chapter specifies that action shall be taken by majority vote or fails to specify the vote required, that shall be interpreted to mean a vote of the majority of those present and not excused from voting. When a two-thirds vote is required, that

shall be interpreted to mean a vote of two-thirds of those present and not excused from voting. When a vote of a certain percentage of the Board membership is required, that shall be interpreted to mean the specified percentage of all seats on the Board, excluding vacant seats.

Section 2-15 Adoption of Ordinances

(a) The affirmative vote of three members of the Board shall be required to adopt any ordinance or resolution. The mayor may vote only to break a tie.

(b) Subject to the provisions of Chapter 159 of the General Statutes (Local Government Finance), no ordinance, nor any action having the effect of any ordinance, 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 the Board membership. For purposes of this section, an ordinance shall be deemed to have been introduced on the date the subject matter is first voted on by the Board. (Amend. 6/12/84)

(c) Franchise ordinances and amendments shall not be finally adopted until passed at two regular meetings of the Board.

Section 2-16 Executive Sessions

The Board may hold executive sessions in accordance with the Open Meetings Law (G.S. 143-318 at seq) and other provisions of law. The Board shall commence an executive session by a majority vote to do so and shall terminate an executive session in the same manner. Minutes shall be kept of executive sessions but shall remain sealed.

Section 2-17 Public Hearings

(a) Public hearings before the board of aldermen required by law or ordinance (including, without limitation, the Carrboro Land Use Ordinance) or deemed advisable by the Board, shall be scheduled pursuant to a motion, adopted by a majority vote, setting forth the subject, date, place, and time of the hearing as well as any rules regarding the length of time of each speaker, and other matters regarding the conduct of the hearing. (Amend 4/13/82)

(b) At the appointed time, the mayor shall call the hearing to order, and then preside over it. Upon the expiration of the allotted time, or when there are no individuals who wish to speak who have not done so, or when it appears that a continuation of the hearing would serve no useful purpose, the Board may, by majority vote, close the public hearing.

(c) A quorum of the Board shall be required at all public hearing required by state law.

Section 2-18 Minutes

Minutes shall be kept of all meetings of the Board.

Section 2-19 and 2-20 Reserved

Article III

MOTIONS

Section 2-21 Substantive and Procedural Motions

(a) A substantive motion is a motion that seeks to have the Board exercise any of its powers, duties, or responsibilities. A motion to amend a substantive motion is also a substantive motion. A substantive motion, other than to amend, is out of order while another substantive motion is pending.

(b) A procedural motion is a motion that relates either to the manner in which the Board conducts its business in general or the manner in which the Board deals with a particular substantive issue or substantive motion that is before it.

(c) Unless otherwise specifically provided, all motions authorized by this article may be amended and debated.

Section 2-22 Motion to Amend

(a) An amendment to a motion must be germane to the subject matter of the motion, but it may achieve the opposite effect of the motion.

(b) There may be an amendment to the motion, and an amendment to an amendment, but no further amendments.

(c) Any amendment to a proposed ordinance shall be reduced to writing upon the call of any member.

Section 2-23 Motions to Dispose of Issue Without Deciding Merits

(a) Motion to defer consideration until a date certain. This motion requires that a date be set when without further action from the Board a matter will again be placed on the agenda.

(b) Motion to defer consideration indefinitely. Adoption of this motion removes the issue from the Board's consideration until such time as a motion to revive consideration is adopted (see Section 2-24(a)) or a new motion dealing with the same issue is introduced and seconded (see Section 2-25(a)).

(c) Motion to refer to a committee. Unless this motion includes an instruction to report the matter back by a date certain, or unless a motion is adopted under Section 2-24(b), a matter referred to a committee remains there until returned to the Board by the committee.

Section 2-24 Motions to Revive or Reconsider an Issue

(a) Motion to revive consideration of an issue. Adoption of this motion brings an issue back before the Board for its consideration, regardless of whether the issue had been deferred indefinitely or to a date certain.

(b) Motion to recall an issue from committee. Adoption of this motion may bring a matter immediately before the Board, or the motion may direct a committee to report an issue back to the Board by a date certain.

(c) Motion to reconsider a vote. This motion may be made only at the meeting at which the vote in question was taken and only by a member who voted with the prevailing side. If adopted, the effect is to negate the earlier vote and then bring the matter back before the Board as if the earlier vote had never taken place.

Section 2-25 Reconsideration of Matters Disposed of on the Merits

(a) Renewal of motions. A motion that is defeated may be renewed at any subsequent meeting unless a motion has been adopted in accordance with subsection (b) of this section.

(b) Motion to prevent reconsideration for six months. This motion is in order immediately following the defeat of a substantive motion and at no other time. It requires a two-thirds vote for adoption. A matter concerning which this motion has been adopted may be brought before the Board prior to the expiration of six months pursuant to a vote to suspend the rules. This motion does not bind a new Board.

Section 2-26 Motion to Terminate Debate

A motion to call the previous question is a motion to cut off debate on a matter under consideration and put the matter to a vote. This motion shall be in order at any time, but unless each Board member present has spoken at least once on the issue or indicates that he or she does not wish to speak on the issue, the motion requires a two-thirds vote for adoption. This motion is not debatable and may not be amended.

Section 2-27 Miscellaneous Motions

In addition to those authorized by this article, the following motions shall be in order;

- (1) Divide a complex question and consider it by paragraph.
- (2) Suspend the rules. This motion shall require a two-thirds vote for adoption.

(3) Take a recess.

(4) Adjourn. This motion may not be amended.

Section 2-28 and 2-30 Reserved

Article IV

CODE OF ETHICS AND DISCLOSURE REQUIREMENTS Amend. 6/4/91

Section 2-31. Applicability

The requirements and obligations imposed under this article are applicable to the mayor and every other member of the board of aldermen (referred to collectively herein as "every elected official").

Section 2-32. Ethical Considerations

(a) It is the obligation of every elected official to support the Constitution of the United States and Constitution of the State of North Carolina. Pursuant to these constitutions, no elected official shall deprive any person of life, liberty or property without due process of law nor deny to any person the equal protection of the laws.

(b) It is the obligation of every elected official to ensure that every citizen receive a fair and impartial hearing on any matter coming before the board of aldermen.

(c) The conduct of public business shall be free of any influence arising from gifts, favors or special privileges. Campaign contributions are not considered to be gifts, favors or special privileges. It is the obligation of every elected official to refuse personal gifts, favors or special privileges in every instance where such elected official reasonably believes such gift, favor or special privilege would not have been extended but for the position of such elected official, or where there exists a reasonable belief that the giver's interests are likely to be affected by the actions of such elected official, or where the gift is or may reasonably be considered to be designed to influence the actions of such elected official. No elected official shall seek personal or financial advantage by means of his public office.

(d) The use of public trust for private gain is inimical to good government. No elected official shall violate the provisions of North Carolina General Statute 14-234, a copy of which is attached to this chapter as Appendix A. No elected official may use confidential or advance information obtained by virtue of public office for personal or financial advantage.

(e) It is the obligation of every elected official to carry out the lawful orders and policies of the board of aldermen. No elected official may knowingly take any action inconsistent with the lawful orders or policies established by the board of aldermen. No elected official may knowingly take any action which

would be detrimental to the best interests of the Town of Carrboro.

Section 2-33. Written Disclosure of Specified Financial Matters

(a) Every elected official shall disclose any legal, equitable, beneficial or contractual interest he or his spouse or domestic partner may have in any real property located within Orange County. The interest in real property which must be disclosed includes any interest in real property which any Board member or his spouse or domestic partner holds title to, individually or jointly, any interest in real property held in trust as well as any pecuniary interest he may have in any business, firm, or corporation of whatever nature, which holds title to or has any ownership interest in any real property within Orange County. Such disclosure shall contain the general location of the real property, but not include its value. (Amend. 9/13/94, effective 10/11/94)

(b) Every elected official shall disclose any legal, equitable, beneficial, or contractual interest he or his spouse or domestic partner may have in any business, firm, or corporation, of whatever nature, which is doing business with the Town pursuant to contracts which have been awarded by the Board. (Amend. 9/13/94, effective 10/11/94)

(c) Every elected official shall disclose any legal, equitable, beneficial or contractual interest he or his spouse or domestic partner may have in any business, firm, or corporation, of whatever nature, which is attempting to secure the award of a bid from the Town or the approval of any board of the Town. This includes an ownership or equity interest as well as an employment relationship. (Amend. 9/13/94, effective 10/11/94)

(d) The disclosures required in subsections 2-33(a), (b), and (c) shall be in writing and filed with the town clerk.

(e) The written disclosures required in subsections 2-33(a), (b) and (c) shall be made within whichever of the following time periods are applicable:

- (1) The later of 30 days after the effective date of this article or 30 days after the elected official has assumed office; or
- (2) The earlier of 30 days after the acquisition of any legal, equitable, beneficial or contractual interest in any property or business, firm, or corporation required to be disclosed in subsections 2-33(a), (b) and (c) or prior to the award by the Board of a contract with or a permit or other approval to a business, firm, or corporation required to be disclosed in subsections 2-33(c) and 2-33(c).

(f) For purposes of this section, the term "domestic partner" refers to a person with whom an elected official has entered into a domestic partnership and filed a "statement of domestic partnership" in accordance with Section 3-2.1 of the Carrboro Town Code. (Amend. 9/13/94, effective 10/11/94)

Section 2-34. Other Disclosure Requirements

Every elected official shall make full and timely disclosure at the time of discussion and prior to a vote of any personal or financial interest which he has in any matter of public business to be transacted.

Section 2-35. Voting

(a) Pursuant to N.C. Gen. Stat. 160A-75, no member shall be excused from voting except upon matters involving the consideration of that member's own financial interest or official conduct or on matters on which the member is prohibited from voting under N.C. Gen. Stat. 14-234, 160A-381(d), or 160A-388(e1). (Amend. 10-24-06)

(b) In any case where a member of the Board seeks to be excused from voting under the circumstances specified in subsection (a) of this section, that member may direct a request to be excused to the remaining board members, who may allow the requesting member to be excused upon a majority vote. In all other cases, a failure to vote by a member who is physically present or who has withdrawn without being excused by a majority vote of the remaining members present shall be recorded as an affirmative vote. (Amend 10-24-06)

(c) The following matters do not require an elected official to seek to excuse himself from a vote thereon:

- (1) An interest in real property which must be disclosed pursuant to Section 2-33(a), provided the issue before the Board is one of policy that affects the real property disclosed no differently than all other property similarly situated;
- (2) An interest in a business, firm, or corporation which is negligible from the point of view of the operation of the business, firm, or corporation; or
- (3) The question of the compensation and allowances of the elected official for his service to the Town of Carrboro.

Section 2-36 through 3-39 Reserved

Article V

MISCELLANEOUS

Section 2-40 Qualifications for Office

Upon the motion of any member, the Board shall determine the qualifications of any member. An office may be declared vacant by majority vote of the Board membership if the member fails to meet any of the statutory or constitutional requirements of office.

Section 2-41 Appointments

Unless the Board agrees by consensus to follow another procedure, the Board shall use the following procedure to appoint individuals to various subordinate boards and offices:

- (1) The mayor shall open the floor to nominations, whereupon the names of possible appointees shall be put forward by the members and debated. Upon the conclusion of the debate, the mayor shall propose each name in alphabetical order, and the members shall cast their votes.
- (2) If only one appointee is to be selected, the voting shall continue until one nominee receives a majority of the votes cast, where-upon he shall be appointed.
- (3) If more than one appointee is to be selected, then each member shall have as many votes as there are slots to be filled. A member must cast all of his votes, and cast them for different nominees. The nominees receiving the highest number of votes shall be appointed.

Section 2-42 Reference to Robert's Rules of Order

Robert's Rules of Order shall govern all procedural matters not addressed by the provisions of this chapter. However, no action taken by the Board shall be invalidated by a failure to abide by Robert's Rules of Order.