

RESOLUTION 18-07
RESOLUTION ADOPTING RULES OF PROCEDURE FOR THE
BOARD OF COMMISSIONERS

WHEREAS, § 30.19 of the Town's Code of Ordinances states that "the Board shall adopt Rules of Procedure not inconsistent with North Carolina General Statutes at their regular scheduled meeting each December, or at other times deemed appropriate and publish same in the office of the Town Clerk;"

WHEREAS, the current Rules of Procedures were adopted on December 8, 2015 and the Board has determined they need to be updated.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to §30.19 of the Town's Code of Ordinances the attached Suggested Rules of Procedure for the Town of Holden Beach Board are hereby adopted and shall be published in the office of the Town Clerk.

This the 10th day of July, 2018.

J. Alan Holden, Mayor

ATTEST:

Heather Finnell, Town Clerk

Suggested Rules of Procedure

for the Town of Holden Beach Board

Part I. Applicability

Rule 1. Applicability of Rules

These rules apply to all meetings of the Holden Beach Board of Commissioners.¹ 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.

Part II. Quorum

Rule 2. Quorum

The presence of a quorum is necessary for the board to conduct business. A majority of the board's actual membership plus the mayor, excluding vacant seats, constitutes a quorum. A quorum exists when three or more commissioners are present, with or without the mayor." A member who withdraws from a meeting without being excused by majority vote of the remaining members in attendance is deemed present for quorum purposes.

Part III. Open Meetings

Rule 3. Remote Participation in Board Meetings

No member who is not physically present for a board meeting may participate in the meeting by electronic means except in accordance with a policy adopted by the board. Although a member who attends a meeting electronically pursuant to such a policy may take part in debate, the member may neither be counted toward a quorum nor vote on any matter before the board.

Rule 4. Meetings to Be Open to the Public

Except as permitted by Rule 5, all meetings of the board shall be open to the public, and any person may attend its meetings.

¹. In North Carolina, the legal status and authority of a municipality is the same, regardless of whether it is denominated a Town, town, or village. *See* G.S. 160A-1(2) (defining the term "Town" as used in Chapter 160A to mean "a municipal corporation . . . having the powers, duties, privileges, and immunities conferred by law on cities, towns, and villages"). The same is true of a municipal governing board, which may be known as a Board, board of aldermen, or board of commissioners. *See* G.S. 160A-1(3) (noting that the term "Board" as used in Chapter 160A is interchangeable with the terms "board of aldermen" and "board of commissioners"). These rules employ the term "Town Board" for the sake of convenience and in deference to the terminology found in Chapter 160A, the primary statutes governing municipal corporations. Obviously, if the governing board of a town or village is adopting these rules, it will need to modify the terminology used to fit its situation.

Rule 5. 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.

Unless the board directs otherwise, the town manager, town attorney, and town clerk may attend closed sessions of the board. No other person may attend a closed session unless invited by majority vote of the board.

Rule 6. Meeting Minutes

(a) Minutes Required for All Meetings. The board must keep full and accurate minutes of all of its meetings, including closed sessions. To be “full and accurate,” minutes must record all actions taken by the board. They should set out the precise wording of each motion and make it possible to determine the number of votes cast for and against each motion. The minutes need not record discussions of the board, though the board in its discretion may decide to incorporate such details into the minutes.

(b) Record of “Ayes” and “Noes.” At the request of any member of the board, the minutes shall list each member by name and record how each member voted on a particular matter.

(c) General Accounts of Closed Sessions. In addition to minutes, the board must keep a general account of each closed session. The general account must be sufficiently detailed to provide a person not in attendance with a reasonable understanding of what transpired. The board may combine the minutes and general account of a closed session into one document, so long as the document contains both a complete record of actions taken and the level of detail required for a general account.

(d) Sealing Closed Session Records. Minutes and general accounts of closed sessions shall be sealed until unsealed by order of the Board or, if the board delegates the authority to unseal to one or more staff members, in accordance with guidelines adopted by the board. The sealed minutes and general account of any closed session may be withheld from public inspection so long as public inspection would frustrate the purpose(s) of the closed session.

Rule 7. Broadcasting and Recording Meetings

(a) Right to Broadcast and Record. Any person may photograph, film, tape-record, or otherwise reproduce any part of a board 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 clerk/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 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.

Part IV. Organization of the Board

Rule 8. Organizational Meeting; Selection of Mayor Pro Tempore

(a) Scheduling Organizational Meeting. The board must hold an organizational meeting following each general election in which board members are elected. The organizational meeting must be held either (1) on the date and at the time of the board's first regular meeting in December following the election or (2) at an earlier date, if any, set by the incumbent board. The organizational meeting may not be held before municipal election results are officially determined, certified, and published as required in accordance with Subchapter IX of Chapter 163 of the North Carolina General Statutes.

(b) Oath of Office. As the first order of business at the organizational meeting, all newly elected members of the board must take and subscribe the oath of office set out in Article VI, Section 7, of the North Carolina Constitution. Each member's oath must be filed with the town clerk. Although a member who is not present for the organizational meeting may take the oath of office at another time, every member must take, subscribe, and file the oath before he or she begins performing any of the duties of the member's office.

(c) Selection of Mayor Pro Tempore and Executive Secretary. As the second order of business at the organizational meeting, the board shall elect a mayor, if he or she is not elected as such by the voters, and a mayor pro tempore. An Executive Secretary shall also be designated by the board for specific purposes described in this Rules of Procedure document. Both shall serve at the board's pleasure.

Part V. Types of Meetings

Rule 9. Regular Meetings

(a) Regular Meeting Schedule. The board shall hold a regular meeting on the third Tuesday 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 in the Holden Beach Town Hall and begin at 7:00 p.m. The board shall adopt a meeting schedule each year consistent with this rule. A copy of the board's current meeting schedule shall be filed with the town clerk and posted on the town's website.

(b) Change to 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 at least seven (7) calendar days before the day of the first meeting held pursuant to the revised schedule and posted on the town's website.

Rule 10. Special Meetings

(a) Calling 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 note of the board in open session during another duly called meeting.

(b) Notice to the Public. At least forty-eight hours before a special meeting of the board, notice of the date, time, place, and purpose of the meeting shall be (1) posted on the board's principal bulletin board or, if the board has no such board, at the door of the board's usual meeting room and (2) delivered, e-mailed, or mailed to each newspaper, wire service, radio station, television station, and person who has filed a written request for notice with the town clerk. Furthermore, if the board has a website maintained by at least one town employee, notice of the special meeting's date, time, place, and purpose shall be posted on the website in advance of the meeting.

(c) Notice to Members.

- (1) *Meeting called by the mayor, the mayor pro tempore, or any two board members.* At least forty-eight hours before a special meeting called by the mayor, the mayor pro tempore, or any two board members, written notice of the meeting stating its date, time, and place, as well as the subjects to be considered, shall be delivered to the mayor and each board member or left at his or her usual dwelling place.
- (2) *Meeting called by vote of the board in open session.* When a special meeting is called by vote of the board in open session during a regular meeting or another duly called special meeting, the motion or resolution calling the special meeting shall state the meeting's date, time, place, and purpose. Written notice of the special meeting's date, time, place, and purpose shall be mailed or delivered at least forty-eight hours before the meeting to each board member not present for the meeting at which the special meeting was called, and to the mayor if he or she was not present at that meeting.

(d) Transacting Other Business. Unless all members are present or any absent member has signed a written waiver of notice, only those items of business specified in the notice to board members may be taken up at a special meeting. Even when all members are present or any absent member has signed a waiver, the board may take up an item of business not covered by the notice only if the board first determines in good faith that the item must be discussed or acted upon immediately.

Rule 11. Emergency Meetings

(a) Grounds for Emergency Meeting. Emergency meetings of the town board may be called only to address generally unexpected circumstances demanding the board's immediate attention.

(b) Calling Emergency Meetings. There are two methods by which an emergency meeting of the board may be called.

- (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 date, time, and place of

the meeting and the subjects to be considered. The notice shall be delivered to the mayor and each board member or left at his or her usual dwelling place at least six hours before the meeting.

- (2) An emergency meeting may be held when the mayor and all members of the board are present and consent thereto, or when any absent member has signed a written waiver of notice.

(c) Notice to Media of Emergency Meetings. Notice of an emergency meeting shall be given to each local newspaper, local wire service, local radio station, and local television station that has filed a written request with the town clerk for notice of emergency meetings. To be valid, the request must include the newspaper's, wire service's, or station's telephone number. Notice may be given by telephone, e-mail, or the same method used to notify board members. Notice must be provided immediately after board members have been notified and at the expense of the party notified.

(d) Transaction of Other Business Prohibited. Only business connected with the emergency may be considered at an emergency meeting.

Rule 12. Recessed Meetings

(a) Calling Recessed Meetings. When conducting a properly called regular, special, or emergency meeting, the board may recess the meeting to another date, time, or place by a procedural motion made and adopted, as provided in Rule 31, Motion 3, in open session. The motion must state the time (including the date, if the meeting will resume on a different day) and place at which the meeting will reconvene.

(b) Notice of Recessed Meetings. If the board has a website maintained by one or more town employees, notice of the recessed meeting's date, time, and place must appear on the webpage prior to the meeting. No further notice of a properly called recessed meeting is required.

Part VI. Agenda

Rule 13. Agenda

(a) Draft and Proposed Agenda. The purpose of the proposed agenda is to expedite the conduct and business and enable the Board and members of the public to know in advance the potential subjects that are to be discussed. The proposed agenda allows preparation by Commissioners, staff and encourages public participation. The proposed agenda is the result of discussion and agreement between the Executive Secretary and Town Clerk on the clarity and completeness of each item on the draft agenda.

The Town Clerk shall first prepare a draft, and ultimately a proposed, agenda in advance of each meeting of the town board in collaboration with the Executive Secretary designated by the board as described below. Any board member may, by a timely request to the Town Clerk, have an item placed on the draft agenda. A request to have an item of business placed on the draft agenda must be received by the Town Clerk at least seven working days before the meeting; any supplemental information/materials shall also be provided in advance. The Executive Secretary selected by the board, or his/her designated substitute in case of absence, shall review the draft agenda and available materials with the Town Clerk one week before the meeting to agree correctness and completeness of all items; items lacking clarity or adequate supporting materials may be deferred to a future meeting at the discretion of the Executive Secretary and Town Clerk if additional explanation or documentation is not made available by the agenda item requestor. Following this meeting, the Town Clerk shall prepare the proposed agenda. If the board is expected to consider

one or more proposed ordinances or ordinance amendments, a copy of the proposed ordinances and/or amendments shall be attached to the proposed agenda. 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 (where appropriate, directions to web links may be used). Each board member shall receive a copy of the proposed agenda and the agenda package at least three working days before a regular meeting 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 first order of business at each meeting, the board shall, as specified in Rule 16, discuss and revise the proposed agenda and adopt an agenda for the meeting. If items are proposed to be added to the agenda of a meeting, the board may, by a majority vote, require that written copies of particular documents connected with the items be made available at the meeting to all board members. The board may by majority vote add items to or subtract items 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. The board may designate certain agenda items “for discussion and possible action.” Such designation means that the board intends to discuss the general subject area of that agenda item before making any motion concerning that item. Items that are added to the agenda at a meeting in combination with significant supporting documentation will be designated “For Discussion”, with action deferred to a later session.

(c) Consent Agenda. The board may designate part of an agenda for a regular meeting as the *consent agenda*. Items may be placed on the consent agenda by those preparing the draft agenda if the items are judged to be noncontroversial and routine. 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.

(d) Informal Discussion of Agenda Items. The board may informally discuss an agenda item even when no motion regarding that item is pending.

Rule 14. Acting by Reference to Agenda or Other Document

The board shall not deliberate, vote, or otherwise take action on any matter by reference to the agenda or any other document with the intention of preventing persons in attendance from understanding what action is being considered or undertaken. The board may deliberate and vote by reference to the agenda or any item on the agenda, including the consent agenda, provided copies of the agenda are available for public inspection at the meeting and are sufficiently worded to enable the public to understand what is being deliberated or acted upon.

Rule 15. Agenda Items from Members of the Public and Public Address to the Board

- (a) Agenda Items. If a member of the public wishes to request that the board include an item on its regular meeting agenda, he or she must submit the request to the town clerk/town

manage by the deadline specified in Rule 13(a)(2). The board is not obligated to place an item on the agenda merely because such a request has been received.

(b) Public Address

1. Speakers and Spokespersons Must be Listed on Approved Agenda. No speaker or spokesperson shall address the BOC at any regular or special meeting pursuant to Rule 5 unless: (i) the address is listed on the agenda for that meeting presented in the agenda package and approved by majority vote at the meeting; (ii) the agenda identifies the speaker or spokesperson, if he or she is a spokesperson identifies the group being represented, summarizes his or her credentials and summarizes the subject matter of the address; (iii) if the speaker is acting as the representative of another person or legal entity (for example, if the speaker is a lawyer representing a client) the agenda shall identify that person or entity; and (iv) the proposed time period has been allotted to the address. If the speaker has been invited to address the BOC by the mayor, another member of the BOC or the Town Manager, the agenda shall name the official issuing the invitation;

2. Agenda Package. No speaker or spokesperson shall address the BOC at any regular or special meeting pursuant to Rule 15 unless the agenda package for that meeting includes a written copy or summary of his or her proposed remarks and copies of any materials he or she proposes to present as part of his or her address unless it is agreed by the Secretary and Town Clerk at the time the draft agenda is reviewed that it is acceptable to receive either electronic or paper copies of presentations made at the meeting at which they are made.

3. Request to Address BOC. Any person or group who wishes to address the BOC pursuant to Rule 15 at any regular or special meeting shall submit a written request to the Secretary and Town Clerk) prior to the cutoff date for the agenda package (i) identifying the speaker or spokesperson, (ii) stating the subject matter of the proposed address, (iii) proposing the date of the meeting to be addressed (and explaining if the request is time sensitive), (iv) explaining why the subject matter cannot be adequately addressed during a public comment period, and (v) stating the time allotment requested.

4. Invitation to Address BOC. The Mayor, any other member of the BOC or the Town Manager may submit such a request on behalf of any person or group or endorse any such request in writing or orally to the Secretary prior to the cutoff date for the agenda package. If two or more voting members of the BOC make or endorse such request, and the material required for the agenda package are timely submitted, the address will be listed under the public hearing section of the agenda; otherwise, the address will be noted as a “pending request or invitation to address the BOC; in either case with all of the details required by point 1 above.

5. Approving Addresses or Presentations Listed on Proposed Agenda. By approving the agenda at a meeting by majority vote without change to any addresses listed in the public hearing section, the BOC will be deemed to have approved such requests or invitations. Alternatively, the BOC may, by majority vote strike, defer to another meeting, change the order of presentation, limit the subject matter scope or limit the allotted time of any

address. Subsequently, during the meeting, the BOC may by adoption of a motion defer or table an address or presentation, adjourn prior to hearing the address, reduce the time allotted or suspend the address if the speaker or spokesperson departs from the subject matter.

6. Approving Pending Requests or Invitations. The BOC shall vote on each pending request listed on the agenda. By motion, the BOC may approve a pending request or invitation for the current meeting or for a later meeting, defer or table consideration of the request or invitation or deny it. Unless otherwise specified by the motion, all requests and invitations approved for the current meeting will be added as the last items on the agenda, and requests and invitations approved for the later meetings will be added to the public hearing section of the tentative agenda for such meeting.

7. No Assurance. All proposed speakers and spokespersons (and any persons issuing invitations) should understand that (i) addressing the BOC pursuant to Rule 15 is completely within the discretion of the BOC, and (ii) the listing of an address or pending request on the tentative agenda provides no assurance that he or she will be able to address the BOC at the meeting. By way of example, if the BOC discerns that a speaker or spokesperson has been invited or has made a request for the purpose of influencing a decision of the BOC on an important or controversial issue, the BOC may decide to defer a proposed address to a later meeting, so as to provide an opportunity for speakers or spokespersons with opposing viewpoints to address the BOC at the same time. By way of further example, in the case of speakers or spokesperson who are lawyers or legal experts and who propose to address legal issues, the BOC will normally defer the address to a later meeting if the Town Attorney is not present at the current meeting.

8. Speakers or Spokespersons Invited by the Mayor. In the case of speakers or spokespersons invited by the Mayor (individually or with others), the Mayor will be deemed to have “joined the debate” and the Mayor Pro Tempore shall preside at the meeting during such address and any questions or comments by the BOC or others related to the address.

9. Decorum. All speakers and spokespersons addressing the BOC pursuant to Rule 15 shall do so in a courteous, respectful and appropriate manner. By way of example, and without limitation, speakers and spokespersons shall address the BOC as a whole and shall not address remarks or questions to the Mayor or any individual BOC member, shall not, without the consent by majority vote of the BOC answer questions or otherwise engage with the audience during the meeting, make personally insulting or disparaging remarks or use the address as an opportunity to campaign for office, solicit business or solicit donations.

10. Time Limit. The Executive Secretary shall serve as timekeeper for all addresses to the BOC, and shall announce “time” when the time period allotted on the agenda has expired. Without the consent by majority vote of the BOC, a speaker or spokesperson shall not continue beyond the allotted time period. If the allotted time period is more than ten minutes, the Executive Secretary will issue a “one minute warning.” At the conclusion of

the address or any extension thereof, the BOC may, by majority consent allot an additional period of time for questions to the speaker or spokesperson from the BOC and/or, as specified by the BOC, from town officials or from the audience.

11. Enforcement. The presiding officer of the meeting shall diligently and strictly enforce these rules with respect to all addresses by speakers and spokespersons pursuant to Rule 15. Any member of the BOC may (i) make a motion directing the presiding officer to require compliance with these rules and admonish the speaker, spokesperson or members of the audience, and, if non-compliance continues, (ii) make a motion to terminate the address, which shall be voted upon immediately and without debate.

Rule 16. Order of Business

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

- adoption of the agenda,
- approval of the consent agenda,
- approval of the previous meeting minutes,
- public hearings,
- public comments,
- administrative reports,
- committee reports,
- unfinished business, and
- new business.

Without objection, the mayor may call agenda items in any order most convenient for the dispatch of business.

Part VII. Role of the Presiding Officer

Rule 17. The Mayor

(a) Presiding Officer. When present, the mayor shall preside at meetings of the board.

(b) Right to Vote. The mayor may vote only when an equal number of affirmative and negative votes have been cast.

(c) Recognition of Members. A member must be recognized by the mayor (or other presiding officer) in order to address the board.

(d) Powers as Presiding Officer. The mayor or other presiding officer shall have the following powers:

- (1) rule on points of parliamentary procedure, to include ruling out of order any motion clearly offered for obstructive or dilatory purposes;
- (2) determine whether a member or other speaker has gone beyond reasonable standards of courtesy in his or her remarks and entertain and rule on objections from other members on

this ground;

- (3) entertain and answer questions of parliamentary procedure;
- (4) call a brief recess at any time; and
- (5) adjourn in an emergency.

(e) Appeals of Procedural Rulings. A member may appeal a decision made or answer given by the mayor under subparagraph (d)(1), (2), or (3) in accordance with Rule 31, 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 18. The Mayor Pro Tempore

(a) Presiding in Mayor's Absence. When present, the mayor pro tempore shall preside over board meetings in the mayor's absence with all the powers specified in Rule 17(d).

(b) Delegation of Mayor's Powers/Duties. In the mayor's absence, the board may confer on the mayor pro tempore any of the mayor's powers and duties. Likewise, if the mayor becomes physically or mentally unable to perform the duties of his or her office, the board may by unanimous vote declare the mayor incapacitated and confer any of the mayor's powers and duties on the mayor pro tempore. When the mayor announces 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.

(c) Duty to Vote. Even when presiding over a board meeting, the mayor pro tempore has the same duty as other members to vote on all questions unless he or she has been excused from voting on a matter in accordance with Rule 28.

Rule 19. Other Presiding Officer

If both the mayor and mayor pro tempore are absent, the board may elect from among its members a temporary presiding officer to chair the meeting. While serving as temporary presiding officer, a member has the same powers and responsibilities defined for the mayor pro tempore.

Rule 20. When the Presiding Officer Is Active in Debate

If the mayor becomes active in debate on a particular proposal, he or she shall designate the mayor pro tempore to preside over the debate. If the mayor pro tempore is absent or is also actively debating the matter, the mayor shall designate another member to preside until the matter is concluded. The mayor or other presiding officer shall resume presiding as soon as action on the matter is concluded.

Part VIII. Motions and Voting

Rule 21. Action by the Board

Except as otherwise provided in these rules, the board shall act by motion. Any member may make a motion, not including the mayor.

Rule 22. Second

A motion, other than a procedural motion pursuant to Rule 31, shall require a second.

Rule 23. One Motion at a Time

A member may make only one motion at a time.

Rule 24. Withdrawal of Motion

The member who introduces a motion may withdraw the motion unless the motion has been amended or the presiding officer has put the motion to a vote.

Rule 25. Debate

The mayor or presiding officer shall state the motion and then open the floor to debate, presiding over the debate according to the principles listed below.

- The maker of the motion is entitled to speak first.
- A member who has not spoken on the issue shall be recognized before a member who has already spoken.
- To the extent practicable, the debate shall alternate between proponents and opponents of the measure.
- A member's first speech on a substantive motion shall be limited to 10 minutes, and any subsequent speech on the same motion shall be limited to five minutes. The same rules apply to debate on a procedural motion, except that a member's first speech shall not exceed five minutes, and any subsequent speech shall be limited to two minutes.

The presiding officer shall be responsible for enforcing time limits. Additional speaking time for a member when requested may be allowed if so decided by a majority, not including the member speaking.

Rule 26. Adoption by Majority Vote

A motion shall be adopted by a majority of the votes cast, a quorum as defined in Rule 2 being present, unless otherwise required by these rules or the laws of North Carolina. A majority is more than half.

Rule 27. Changing a Vote

A member may change his or her vote on a motion at any time before the presiding officer announces whether the motion has passed or failed. Once the presiding officer announces the result, a member may not change his or her vote without the unanimous consent of the remaining members present. A member's request for unanimous consent to change a vote is not in order unless made immediately following the presiding officer's announcement of the result.

Rule 28. Duty to Vote

(a) Duty to Vote. Every board member must vote except when excused from voting according to the law. Questions about whether a basis for excusal exists should be directed to the town attorney.

(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. 160A-381(d) (legislative zoning decision likely to have a direct, substantial, and readily identifiable financial impact on member), or G.S. 160A-388(e)(2) (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 presiding officer, 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 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.

(f) Mayor's Duty to Vote. The provisions of this rule apply to the mayor.

Rule 29. Voting by Written Ballot

(a) Secret Ballots Prohibited. The board may not vote by secret ballot.

(b) Rules for Written Ballots. The board may decide by majority vote or unanimous consent to vote on a motion by written ballot. Each member must sign his or her ballot, and the minutes must record how each member voted by name. The ballots must be made available for public inspection in the town clerk's office immediately following the meeting at which the vote took place and remain there until the minutes of that meeting are approved, at which time the ballots may be destroyed.

Rule 30. Substantive Motions

A substantive motion is not in order while another substantive motion is pending.

Rule 31. 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) Priority of Motions. The procedural motions set out in this paragraph are listed in order of priority. A procedural motion is not in order so long as another procedural motion of higher priority is pending, except that

- any procedural motion other than an appeal under Motion 1 is subject to amendment as provided in Motion 12, and
- a motion to call the question (end debate) may be made with regard to any procedural

motion in accordance with Motion 9.

When several procedural motions are pending, voting must begin with the procedural motion highest in priority, provided that a motion to amend or end debate on the highest priority motion must be voted on first.

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 procedure 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 2. 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.

Motion 3. To Recess to a Time and Place Certain. This motion may be used to call a recessed meeting as permitted under Rule 12. The motion must state the time (including the date, if the meeting will reconvene on a different day) and place at which the meeting will resume. The motion is not in order if the board is in closed session.

Motion 4. To Take a Brief Recess.

Motion 5. 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 6. 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.

Motion 7. 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 8. To Leave Closed Session

Motion 9. To Divide a Complex Motion. This motion is in order whenever a member wishes to consider and vote on parts of a complex motion separately. The member who makes this motion must specify how the complex motion will be divided.

Motion 10. 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 31(b), Motion 13], or else move to suspend the rules [Rule 31(b), Motion 6].

Motion 11. 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 12. To End Debate (Call the Previous Question). If adopted, this motion terminates debate on a pending motion, thereby bringing it to an immediate vote. This motion is not in order until every member has had an opportunity to speak once on the pending motion.

Motion 13. To Postpone to a Certain Time. 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 31(b), Motion 6].

Motion 14. To Refer a Motion to a Committee. The board may vote to refer a substantive motion to a committee for study and recommendations. While the substantive motion is pending before the committee, the board may not take up a new motion raising essentially the same issue without first suspending its rules pursuant to Motion 6. If the committee fails to report on the motion within 60 days of the referral date, the board must take up the motion if asked to do so by the member who introduced it.

Motion 15. 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 a rejection of the original motion. A proposal to substitute completely different wording for a motion or an amendment shall be treated as a motion to amend.

(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) Any amendment to a proposed ordinance order, policy or resolution shall be reduced to writing before the vote on the amendment.

Motion 16. To Revive Consideration. The board may vote to revive consideration of any substantive motion earlier deferred by adoption of Motion 10 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 17. 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 18. 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 19. 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 an 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 restriction imposed by the motion remains in effect for six months or until the next organizational meeting of the board, whichever occurs first.

Part IX. Ordinances and Contracts

Rule 32. Introduction of Ordinances

For purposes of these rules, the “date of introduction” for a proposed ordinance is the date on which the board first votes on the proposed ordinance’s subject matter. 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 33. Adoption, Amendment, and Repeal of Ordinances

(a) Adoption of Ordinances.

- (1) *Proposed ordinances to be in writing.* No proposed ordinance shall be adopted unless it has been reduced to writing and distributed to members before a vote on adoption is taken.
- (2) *Adoption on date of introduction.* To be approved on the date of introduction, a proposed ordinance or any action having the effect of an ordinance must receive affirmative votes equal to at least two-thirds of the board’s actual membership, excluding vacant seats and not counting the mayor, unless the mayor has the right to vote on all questions before the board.
- (3) *Adoption after date of introduction.* To be approved after the date of introduction, a proposed ordinance or any action having the effect of an ordinance must receive affirmative votes equal to at least a majority of all board members not excused from voting on the matter. In calculating the number of affirmative votes necessary for approval, the board shall count the mayor if he or she votes on all questions. If the mayor votes only in the case of tie, the mayor’s vote counts if there is an equal division.

(b) Amendment and Repeal of Ordinances. The same voting requirements that govern the adoption of proposed ordinances also apply to the amendment or repeal of an ordinance.

Rule 34. Adoption of the Budget Ordinance

(a) Special Rules for the Adoption or Amendment of the Budget Ordinance. Notwithstanding any provision in the town charter, general law, or local act,

- (1) the board may adopt or amend the budget ordinance at a regular or special meeting of the board by a simple majority of those members 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 or 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.

(b) Notice Requirements for Budget Meetings. 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 meetings law, which continue to apply, no provision of law concerning the call of special meetings applies during that period so long as

- each member of the board has actual notice of each special meeting called for the purpose of considering the budget and
- no business other than consideration of the budget is taken up.

(c) **No Authority for Closed Sessions.** This rule shall not be construed to authorize the board to hold closed sessions on any basis other than the grounds set out in Rule 5.

Rule 35. Approval of Contracts and Authorization of Expenditures

(a) **Contracts to be in Writing.** No contract shall be approved or ratified by the town board unless it has been reduced to writing at the time of the board's vote.

(b) **Approval of Contracts.** To be approved or ratified, a contract must receive affirmative votes equal to at least a majority of all board members not excused from voting on the contract, including the mayor's vote in the event of a tie.

(c) **Authorization of Expenditure of Public Funds.** The same vote necessary to approve or ratify a contract is required for the board to authorize the expenditure of public funds, except when the expenditure is authorized pursuant to Rule 34.

Part X. Public Hearings and Comment Periods

Rule 36. Public Hearings and Public Comment Periods

(a) Public Hearings

(1) **Calling Public Hearings.** Public hearings required by law or deemed advisable by the board shall be organized by a special order that sets forth the subject, date, place, and time of the hearing as well as any rules regarding the length of time allotted for each speaker and other pertinent matters. This special order is adopted by a majority vote.

(2) **Rules for Public Hearings.** The rules may include, but are 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. 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.

(3) **Notice and Conduct of Public Hearings.** 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 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 notices required by the open meetings law or other provisions of law have been given may be continued to a time and place certain without further advertisement. The requirements of Rule 12 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, and the board shall resume the regular order of business.

(2) Public Comment Periods. The board must provide at least one opportunity for public comment each month at a regular meeting, except that the board need not offer a public comment period during any month in which it does not hold a regular meeting. Subject to waiver by an express resolution of the BOC, the following regulations shall apply and be enforced with respect to any public comment period at any regular, special or emergency meeting of the BOC.

(a) Time and Location: Unless posted otherwise as required by law, the BOC convenes its monthly public hearings and regular meeting on the third Tuesday of each month at 7:00 p.m. at Town Hall. The agenda will contain one or more items entitled "Public Comment Period." Typically, the Public Comments Periods will be titled Public Comments on Agenda Items and Public Comments on General Items.

(b) Sign-up Sheet: Any member of the THB Public who wishes to address the BOC as a speaker or as a spokesperson for a group during Public Comments on Agenda Items must register on the sign-up sheet located at the Town Clerk's seat between 6:00 p.m. and 6:55 p.m. on the night of the meeting by listing his/her name, address, the name of any group for which he or she is a spokesperson, and comment topic(s). Speakers who wish to address the BOC under Public Comments on General Items are not required to register. General Speakers or spokespersons who wish or who are invited by members of the BOC, the Mayor or other public officials to address the BOC on any subject matter must use the procedure provided for under Rule 15 of the BOC Rules of Procedure.

(c) Speaking Order: Speakers and spokespersons will be called on in the order in which the names appear on the sign-up sheet. Each speaker or spokesperson will then proceed, one at a time in order of sign-up. Before beginning comments, each speaker or spokesperson will state his/her name and the name of any group for which he or she is the spokesperson.

(d) Time Allotted for Each Speaker: Each speaker will be allotted 3 minutes to comment during the designated public comment period or periods at any meeting, unless this speaker or spokesperson requests the time limit is extended, to no more than 6 minutes, on the sign-up sheet and the extension is acceptable to the majority of the BOC. To allow an opportunity for others to participate, each speaker or spokesperson shall have only one opportunity to speak during any meeting. Except for such designated comment periods, persons in attendance at any meeting shall not speak or otherwise interrupt the meeting, except with the consent of the BOC by majority vote.

(e) Timekeeper: The designated timekeeper will be the Town Clerk, who will begin timing the speaker or spokesperson after recording the speaker's name and address for the public record and will announce "Time" when the allotted time expires.

(f) Written Comments: At the end of the allotted time, a speaker or spokesperson may also submit written comments to the Town Clerk, who will copy written comments to the mayor and all BOC members the following business day, if a sufficient number of copies is not provided by the speaker or spokesperson. A speaker's or spokesperson's

comments may be summarized in the meeting minutes if a legible, written copy is not submitted to the Town Clerk, and all such written comments or materials shall be available as public records.

(g) Number of Speakers on Each Topic: It is recommended that large groups or delegations select their spokesperson in advance of sign-up.

(h) Topic Exclusions: Speakers or spokespersons will not comment on matters which concern: the candidacy of any person seeking public office, including the candidacy of the speaker or spokesperson;

(i) Address to the BOC: Speakers will address all comments to the BOC as a whole; and will not address or question one or more BOC members, the Mayor or any town staff members, officials and employees as individuals. Speakers will address members of the BOC, the Mayor, town staff members, officials and employees and other members of the THB Public with courtesy and will not do or say anything that will interfere with the dignity and decorum of the meeting. Discussions between speakers or spokespersons and the audience will not be allowed, and no member of the BOC, the Mayor or any town staff members, official or employee will respond to the comments or questions of any speaker or spokesperson until after all speakers and spokespersons on the sign-up have completed their comments.

(j) Response to Comments: At the end of all speakers' and spokespersons' comments, any member of the BOC may request that the Town Manager (or his or her designee) respond to a concern raised by the speaker.

(k) Questions on Comments: At the end of all speaker's and spokesperson's comments, any member of the BOC may ask the speaker such questions as they might deem necessary and appropriate for clarification.

(l) Action by Board of Commissioners: Speakers and spokespersons should not expect BOC deliberation or action on any subject matter brought up during the Public Comment Period. Topics requiring further investigation will be referred to the Town Manager (or his or her designee), and may be scheduled for consideration as an agenda item during a future regular meeting.

(m) Monitoring and Enforcement. The Mayor or presiding officer shall act as the monitor for all public comment periods for the purpose of recognizing speakers and spokespersons from the sign-up list, also enforcing the time allotted to speakers or spokesperson.

Rule 37. Public Comment Periods

(a) Frequency of Public Comment Periods. The board must provide at least one opportunity for public comment each month at a regular meeting, except that the board need not offer a public comment period during any month in which it does not hold a regular meeting.

(b) Rules for Public Comment Periods. The board may adopt reasonable rules for public comment periods that, among other things,

- fix the maximum time allotted to each speaker,
- provide for the designation of spokespersons for groups supporting or opposing the same positions,
- provide for the selection of delegates from groups supporting or opposing the same positions when the number of persons wishing to attend the public comment period exceeds the capacity of the hall (so long as arrangements are made for those excluded from the hall to listen to the hearing), and

- provide for the maintenance of order and decorum in the conduct of the hearing.

(c) Content-Based Restrictions Generally Prohibited. The board may not restrict speakers based on subject matter, as long as their comments pertain to subjects within the board's real or apparent jurisdiction.

Part XI. Appointments and Appointed Bodies

Rule 38. Appointments

(a) Appointments in Open Session. The board must 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. **(b) Nomination and Voting Procedure.** The board shall use the following procedure to fill a vacancy in the board itself or in any other body over which it has the power of appointment. The mayor shall open the floor for nominations, whereupon board members may put forward and debate nominees. When debate ends, the mayor shall call the roll of the members, and each member shall cast a vote for his or her preferred nominee. The voting shall continue until a nominee receives a majority of votes cast during a single balloting.

(c) Mayor. The mayor may not make nominations or vote on appointments under this rule.

(d) Multiple Appointments. If the board is filling more than one vacancy, each member shall have as many votes in each balloting as there are slots to be filled, and the votes of a majority of the total number of members voting shall be required for each appointment. No member may cast more than one vote for the same candidate for the same vacancy during a single balloting.

(e) Duty to Vote. It is the duty of each member to vote for as many appointees as there are appointments to be made, but failure to do so shall not invalidate a member's ballot.

(f) Vote by Written Ballot. The board may vote on proposed appointments by written ballot in accordance with Rule 29.

Rule 39. Committees and Boards

(a) Establishment and Appointment. The board may 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 board shall be followed. Unless otherwise provided by law or the board, the power of appointment to such bodies lies with the board.

(b) Open Meetings Law. The requirements of the open meetings law shall apply to all elected or appointed authorities, boards, commissions, boards, 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.

(c) Procedural Rules. The board may prescribe the procedures by which the town's appointed bodies operate, subject to any statutory provisions applicable to particular bodies. In the absence of rules adopted by the Board, an appointed body may promulgate its own procedural rules, so long as they are in keeping with any relevant statutory provisions and generally accepted principles of parliamentary procedure.

Part XII. Miscellaneous

Rule 40. 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, excluding vacant seats, and not including the mayor.

Rule 41. 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.