

Rules of Procedure of the Hope Mills Board of Commissioners

Rule 1. Regular Meetings

See Hope Mills Code of Ordinances Section 2-66.

Rule 2. Special, Emergency, and Recessed Meetings

(A) Special Meetings. The mayor, mayor pro tempore, or any two members of the board may at any time call a special meeting by signing a written notice stating the time and place of the meeting and the subjects to be considered. At least forty-eight (48) hours before a special meeting called in this manner, written notice of the meeting stating its time and place and the subjects to be considered shall be (1) posted on the board's principal bulletin board and (2) mailed, emailed 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. Notice of the meeting 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. Only those items of business specified in the notice may be discussed or transacted at a special meeting called in this manner, unless all members are present or have signed a written waiver of notice.

A special meeting may also be called or scheduled by vote of the board in open session during another duly called meeting. The motion or resolution called or scheduling the special meeting shall specify its time, place, and purpose. At least forty-eight (48) hours before a special meeting called in this manner, notice of the time, place, and purpose of the meeting shall be (1) posted on the board's principal bulletin board and (2) 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.

(B) Emergency Meetings. Emergency meetings of the 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, mayor pro tempore, or any two members of the board may at any time call an emergency meeting by signing a written notice stating the 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 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 in either case only 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 newspaper, wire service, radio station, and television station that has filed a written emergency meeting notice request, which include 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, shall be given immediately after notice has been given to the mayor and board members, and shall be given at the expense of the party notified.

(C) Recessed Meetings. A properly called regular, special, or emergency meeting may be recessed 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 session of a properly called regular, special, or emergency meeting.

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 at the first order of business. As the second order of business, the board shall elect as mayor pro tempore the person receiving the highest number of votes in the preceding election. 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.

See also Hope Mills Charter Sec. 2.4, "Mayor Pro Tempore."

Rule 4. Agenda

(A) Proposed Agenda. The town manager shall prepare a proposed agenda for each meeting. A request to have an item of business placed on the agenda must be received at least two (2) working days before the meeting. Any board member may, by timely request, have an item placed on the proposed agenda. A copy of all proposed ordinances shall be attached to the proposed agenda. Each board member shall receive a copy of the proposed agenda and 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 first 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. If items are proposed to be added to the agenda of a meeting, the board may, by 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.

(C) Consent Agenda. The board may designate a part of the agenda as the “consent agenda.” Items shall be placed on the consent agenda by those preparing the proposed agenda if they 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) Open Meetings Requirements. The board shall not deliberate, vote, or otherwise take action on any matter by reference to a letter, number or other designation, or other secret device or method, with the intention of making it impossible for persons attending a meeting of the board to understand what is being deliberated, voted, or acted on. The board may, however, deliberate, vote, or otherwise take action by reference to an agenda, if copies of the agenda – sufficiently worded to enable the public to understand what is being deliberated, voted, or acted on – are available for public inspection at the meeting.

Rule 5. Public Presentation to the Board

Any individual or group who wishes to make a presentation to the board shall make a request to be on the agenda to the town clerk or manager, and the manager may add the item to the agenda if he or she deems it appropriate. However, the board shall determine at the meeting whether it will hear individual or group.

Rule 6. Order of Business

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

- Call to order
- Invocation
- Pledge of allegiance
- Approval of agenda
- Presentations
- Public hearings
- Public comments
- Consent agenda
- Old business
- New business
- Report and information items
- Staff comments
- Official comments
- Closed sessions, if any
- Adjournment

By vote of the board, items may be considered out of order or added to the agenda.

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; and
- (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.

See also Hope Mills Charter Sec. 2.3, "Selection of the mayor and other officers; meetings."

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 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 unanimous 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.

Rule 9. When the Presiding Officer Is In Active Debate

If the mayor or other presiding officer becomes actively involved in debate on a particular matter, he or she shall 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

The Board shall proceed by motion, except as otherwise provided for in Rule 4 and in Rule 31. Any member may make a motion.

Rule 11. Second Required

A motion shall require a second, or it shall fail for lack of a second.

Rule 12. One Motion at a Time

There may only be one motion pending at a time, except as otherwise provided by these rules.

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.

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.

Rule 16. Debate

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

- (a) The maker of the motion is entitled to speak first; and
- (b) A member who has not spoken on the issue shall be recognized before someone who has already spoken.

Rule 17. Ratification of Actions

To the extent permitted by law, the board may 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, the procedural motions are

- Motion 1. To Appeal a Procedural Ruling of the Presiding Officer.
- Motion 2. To Adjourn.
- Motion 3. To Take a Brief Recess.
- Motion 4. Call to Follow the Agenda.
- Motion 5. To Suspend the Rules.
- Motion 6. To Go into Closed Session.
- Motion 7. To Leave Closed Session.
- Motion 8. To Divide a Complex Motion and Consider It by Paragraph.
- Motion 9. To Defer Consideration.
- Motion 10. Motion for the Previous Question.
- Motion 11. To Postpone to a Certain Time or Day
- Motion 12. To Refer a Motion to a Committee.
- Motion 13. To Amend.
- Motion 14. To Revive Consideration
- Motion 15. To Reconsider.
- Motion 16. To Rescind or Repeal.
- Motion 17. To Prevent Reintroduction for Six Months.

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. A motion to recess to a time and place certain shall also comply with the requirements of Rule 2(c).

Motion 3. To Take a Brief Recess. A motion to take a brief recess is in order at any time except when a motion to appeal a procedural ruling of the presiding officer or a motion to adjourn is pending. Also, the presiding officer has the power to call a brief recess at any time pursuant to Rule 7(d).

Motion 4. To Follow the Agenda. If adopted, this motion prevents the board from deviating from a proposed 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 of Procedure. The board may not suspend the provisions of the rules that state requirements imposed by law on the board. For adoption, this motion requires a vote equal to two-thirds (2/3) of the actual membership of the board, excluding the mayor, 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. § 143-318.11(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. This motion provides a procedural mechanism for returning from closed session to open session. The board shall return to open session once it has concluded its closed session business, even if it has no other business to transact except adjourning the meeting.

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 of procedure (Rule 18(b), Motion 5).

Motion 10. Motion for the Previous Question. The motion is not in order until there have been at least 20 minutes of debate, and every member has had an opportunity to speak once.

Motion 11. To Postpone to a Certain Time and Day. The person making the motion shall specify the date and time to which the motion shall be brought back. 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 of procedure (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. 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 or resolution shall be reduced to writing before the vote on the amendment.

Motion 14. To Revive Consideration. The board may vote to revive consideration of any substantive motion earlier deferred by adoption of the 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 (i.e. the winning side) and at the meeting during which the original vote was taken, including any continuation of that meeting through a recess to a time and place certain. The motion cannot interrupt deliberation on a pending matter, but it 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. Except as otherwise provided by law, 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, 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.

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 or unless otherwise prohibited by law.

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

No member shall be excused from voting except upon matters involving the consideration of the member's own financial interest or official conduct or on matters on which the member is prohibited from voting under G.S. 14-234, 160A-381(d), or 160A-388(e)(2). In all other cases, a failure to vote by a member who is physically present in the meeting room, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an affirmative vote. The question of the compensation and allowances of members of the board is not a matter involving a member's own financial interest or official conduct.

Rule 22. Introduction of Ordinances

(A) A proposed ordinance shall be deemed introduced on the date the subject matter is first voted on by the board. In accordance with G.S. § 160A-75 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 all the actual membership of the board, excluding vacant seats and not including the mayor.

(B) If a motion to adopt an ordinance or any action having the effect of an ordinance is postponed to a certain time and day (Rule 18(b), Motion 11), the two-thirds majority voting requirement of G.S. § 160A-75 shall continue to apply until the first date the motion is voted on.

(C) If a motion to adopt an ordinance or any action having the effect of an ordinance is brought back before the board via a motion to reconsider (Rule 18(b), Motion 15), the two-thirds majority voting requirement of G.S. § 160A-75 shall not apply on any date after the first vote on the substantive motion has been taken.

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 questions in issue (including the mayor's vote in the 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 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. No ordinance shall be adopted unless it has been reduced to writing before a vote on adoption is taken.

(B) Zoning Protest Petitions. As provided by G.S. § 160A-385 and 160A-386,

(1) In the case of a qualified protest against a zoning map amendment, that amendment shall not become effective except by favorable vote of three-fourths of all the members of the board. For the purposes of this subsection, vacant positions on the board and members who are excused from voting shall not be considered "members of the board" for calculation of the requisite supermajority.

- (2) To qualify as a protest under this section, the petition must be signed by the owners of either (i) twenty percent (20%) or more of the area included in the proposed change or (ii) five percent (5%) of a 100-foot-wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned. A street right-of-way shall not be considered in computing the 100-foot buffer area as long as that street right-of-way is 100 feet wide or less. When less than an entire parcel of land is subject to the proposed zoning map amendment, the 100-foot buffer shall be measured from the property line of that parcel. In the absence of evidence to the contrary, the town may rely on the county tax listing to determine the “owners” of potentially qualifying areas.
- (3) No protest against any change in or amendment to a zoning ordinance or zoning map shall be valid or effective for the purposes of G.S. § 160A-385 unless it be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment, and unless it shall have been received by the town clerk in sufficient time to allow the town at least two normal work days, excluding Saturdays, Sundays and legal holidays, before the date established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition. The board may by ordinance require that all protest petitions be on a form prescribed and furnished by the town, and such form may prescribe any reasonable information deemed necessary to permit the town to determine the sufficiency and accuracy of the petition. A person who has signed a protest petition may withdraw his or her name from the petition at any time prior to the vote on the proposed zoning amendment. Only those protest petitions that meet the qualifying standards set forth in G.S. § 160A-385 at the time of the vote on the zoning amendment shall trigger the supermajority voting requirement.
- (4) The foregoing provisions concerning protests shall not be applicable to any amendment which initially zones property added to the territorial coverage of the ordinance as a result of annexation or otherwise, or to an amendment to an adopted (i) special use district, (ii) conditional use district, or (iii) conditional district if the amendment does not change the types of uses that are permitted within the district or increase the approved density for residential development, or increase the total approved size of nonresidential development, or reduce the size of any buffers or screening approved for the special use district, conditional use district, or conditional district.

See also Hope Mills Zoning Ordinance Sec. 102A-1606, “Protest Petitions.”

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 meetings 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. Special Rules of Procedure

None.

Rule 26. Closed Sessions

The board may hold closed sessions as provided by law. The board shall only commence a closed session only 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, mediations, arbitrations, 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 and Public Comment Periods

(A) Public Hearings. Public hearings required by law or deemed advisable by the board shall be organized by a resolution of the board that sets forth the subject, date, place, and time of the hearing. This resolution is adopted by a majority vote. The mayor or presiding officer may set rules including, but are not limited to, (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 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 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 presiding officer 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.

(B) Public Comment Period. The Hope Mills Board of Commissioners is committed to allowing members of the public an opportunity to offer comments and suggestions for the efficient and effective administration of government. In addition to public hearings, a special time is set aside for the purpose of receiving such comments and suggestions. All comments and suggestions addressed to the Board during the Public Comment Period shall be subject to the following procedures:

- (1) The Public Comment period will be held at the beginning of the Board meeting and will be limited to a maximum of thirty (30) minutes.
- (2) Persons who wish to address the Board during the Public Comment Period must register on sign-up sheets available with the Town Clerk prior to 6:55 p.m. on the meeting night indicating their contact information and topic.

- (3) Persons may speak on any topic other than public hearing items. Speakers shall not discuss matters which concern the candidacy of any person seeking public office, including the candidacy of the person addressing the Board. Speakers shall not make defamatory remarks.
- (4) Speakers will be acknowledged by the Mayor in the order in which their names appear on the sign-up sheet. Speakers will address the Board from the podium at the front of the Board Meeting Room and begin their remarks by stating their name and address.
- (5) Comments are limited to three (3) minutes per speaker. A speaker cannot give his or her allotted minutes to another speaker to increase that person's allotted time. Speakers should avoid repetition, and groups should designate a spokesperson when possible.
- (6) The Board may choose to extend the time for public comment by a majority vote. Individuals who sign up but cannot speak because of time constraints will be carried to the next regular meeting of the Board and Commissioners and placed first on the public comment agenda.
- (7) For clarification, the Board of Commissioners may ask the speaker questions. Any action on items brought up during the Public Comment Period will be at the discretion of the Board. Pursuant to G.S. § 143-318.11(a)(6) and 160A-168, the Board of Commissioners shall not discuss personnel matters pertaining to a specific Town employee in open session.
- (8) Speakers will address all comments to the Board as a whole and not one individual commissioner. Discussions between speakers and members of the audience will not be allowed.
- (9) Speakers will be courteous in their language and presentation. Any applause will be held until the end of the Public Comment Period.
- (10) Speakers who have prepared written remarks or supporting documents are encouraged to leave a copy of such remarks and documents with the Town Clerk.

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 public 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 the “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 may be sealed 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; Committees and Boards

(A) General. All volunteer boards and commissions shall be governed by this rule and such other requirements as are established by law. The board may, by majority vote, waive, vary, or otherwise modify the process established in this rule.

(B) Purpose. The purpose of this rule is to develop a preferred process for the Board of Commissioners to follow when making appointments to volunteer boards and commissions and to ensure that all volunteer boards and commissions operate under the same process. This written process will clearly outline and show citizens the process the Board of Commissioners uses for board appointments.

(C) Appointment Terms.

(1) Unless otherwise provided by law, all terms of office where terms of office are determined by the Board of Commissioners, shall be two years. Terms on the Zoning Board and Zoning Board of Adjustment shall be staggered and insofar as is possible, there shall always be one or more members with experience on both boards.

(2) No person shall serve on more than one (1) board at the same time.

(D) Appointment Procedure.

(1) Recruitment. During recruitment, applicants will be sought from all segments of the community, representing various interests and groups.

(2) Unexpired terms. The board intends to make appointments to fill unexpired portions of terms created by vacancies as expeditiously as needed. Further, the board recognizes that the urgency of filling such vacancies may vary depending upon the circumstances of the vacancy.

(3) Application. In order to be eligible for appointment to a board or commission and continue to serve, a person must be an adult permanently residing inside town limits and file an application on a form provided by the town clerk. Notwithstanding the foregoing sentence, members of the Economic Development Committee may include up to five business owners who live within the town’s municipal influence area (“MIA”), provided that the business must be located within the town limits. Those five members shall be voting members of the Economic Development Committee.

(4) Publication-posting. The town clerk shall advertise on the town website vacancies on boards/commissions as they come open.

(5) The town will accept applications as vacancies come open.

(6) At the conclusion of the recruitment period the town clerk will provide a list of the applicants to the Board of Commissioners' Nominating Committee along with all of the applications for their consideration.

(7) Nominating Committee.

(a) The Board of Commissioners will form a standing "Nominating Committee" to review applications to volunteer boards and commissions. This committee will be comprised of two commissioners, appointed by the Mayor. The town clerk will serve as staff representative to the Nominating Committee.

(b) The Nominating Committee will review applications to ensure that the applicants are eligible to serve on each board/commission for which the applicant has expressed interest. The Nominating Committee will forward a recommended list of appointments along with comments to the Board of Commissioners for their review prior to placement on the agenda for consideration.

(8) Selection.

(a) The Board of Commissioners may vote on the list of appointments as submitted by the Nominating Committee, but upon request of any board member, may nominate additional applicants.

(b) The board will only consider citizens for which there is a current application on file.

(c) After the nominations cease, the Board of Commissioners will vote on each nominee, in order of nomination, until a nominee receives a majority vote from the board for selection. The nominee receiving the highest number of votes shall be appointed.

(E) Removal. All members of all boards and commissions shall, unless in conflict with State statutes, serve at the pleasure of the Board of Commissioners, regardless of the terms for which they were appointed. The Board of Commissioners may in its discretion at any time remove any members of any board or commission when it is determined to be in the best interest of the Town, such as inefficiency, neglect of duty, or malfeasance in office.

(F) Resignations. If a member of a volunteer board or commission concludes that he or she will have difficulty fulfilling their volunteer commitment, the member may in his or her discretion voluntarily resign from the board. Notice should be communicated in writing by letter

or e-mail to the town clerk.

(G) Attendance Requirement. Any member of a volunteer board or commission who fails to attend at least 75% of the regular committee meetings to which appointed, except for excused illness, or other extraordinary circumstances, during any one calendar year period shall be removed from said board. The chair of each board shall notify the Board of Commissioners of any member whose absences exceed 25% of the regular meetings. Members not meeting this 75% attendance requirement may be removed by action of the Board of Commissioners and replaced by another interested individual.

Rule 32. Committees and Boards

(A) Establishment and Appointment. Boards, committees and commissions appointed for special ad hoc tasks shall be exempt from the requirements of Rule 31. The board and/or the mayor may establish and appoint members for such temporary and standing town committees and boards as are needed to help carry on the work of city government. Any specific provisions of law relating to particular committees and boards shall be followed.

(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 the actual membership of the board, excluding vacant seats, and not including the mayor.

Rule 34. Reference to *Robert's Rules of Order Newly Revised* and School of Government Commentary

The board shall use these rules to govern its meetings, but it shall refer to *Robert's Rules of Order Newly Revised* and the commentary contained in the *Suggested Rules of Procedure for a City Council*, 3rd ed. (UNC-School of Government 2013), to answer procedural questions not answered by these rules. A copy of the commentary is attached hereto as Appendices A and B.

Appendix A: Commentary from the *Suggested Rules of Procedure for a City Council*, 3rd ed. (UNC-School of Government 2013)

Introduction

THESE RULES OF PROCEDURE were designed for use by a municipal council. They incorporate general principles of parliamentary procedure and applicable North Carolina laws. Essentially the rules are a modified version of *Robert's Rules of Order Newly Revised* (hereinafter referred to as *RONR*). However, *RONR* is intended primarily to guide the deliberations of large legislative bodies; its detailed rules are not always appropriate for a small governing board. A small board can afford to do some things that are not appropriate for a large body, and in some cases the procedure prescribed by *RONR* for larger assemblies is unnecessarily cumbersome. *RONR* itself recognizes that more informality is desirable with small boards (*RONR*, Sec. 48, pp. 477–78); these rules detail the more informal procedures that might be expected with a small board. This book modifies *RONR* with the following principles in mind:

1. The council must act as a body.
2. The council should proceed in the most efficient manner possible.
3. The council must act by at least a majority.
4. Every member must have an equal opportunity to participate in decision making.
5. The council's rules of procedure must be followed consistently.
6. The council's actions should be the result of a decision on the merits and not a manipulation of the procedural rules.

Many of the rules suggested here reflect the provisions of the North Carolina city council meeting procedure statutes, Chapter 160A, Article 5, Parts 1–3, of the North Carolina General Statutes (hereinafter G.S.) (G.S. 160A-68 to -81) and the North Carolina open meetings law, G.S. Chapter 143, Article 33C (G.S. 143-318.9 to 143-318.18). When the rules in this book state procedures that are required by sections of these statutes, that fact is noted in the Comments. City councils must follow procedures required by these laws, whether or not they adopt some version of the rules in this book.

Note that G.S. 160A-82 provides that nothing in G.S. 160A-68 through G.S. 160A-81 (with certain exceptions not pertinent here) is to be construed to repeal any inconsistent provision of any city charter. (See also G.S. 160A-3, which provides rules for resolving conflicts between charter provisions and other statutes.) City officials should examine the city charter whenever a Comment refers to a general law, to determine whether the charter conflicts with the cited general law.

A city council has a relatively free hand in designing its own rules of procedure, as long as the requirements of the general laws mentioned above and the city's charter are followed and the board adheres to the general principles listed earlier. Most of the rules in this book are merely suggested procedures, and each council should feel free to change them to suit local needs and customs. For example, Rule 11 eliminates the requirement of a second to a motion. A council may choose to adopt that rule or not. Alternative wordings and optional language for some of the rules are shown enclosed in brackets.

Throughout these rules the city governing board is referred to as the “council,” in keeping with the wording of G.S. Chapter 160A.

Suggested Rules of Procedure

Rule 1. Regular Meetings

Comment: G.S. 160A-71 allows the city council to fix a time and place for regular meetings. If the council does not do so, it is required to meet at least once a month at 10 a.m. on the first Monday. Although the general law permits a council to fix a regular meeting time that is less frequent than once a month, many city charters require the council to meet at least monthly. G.S. 143-318.12(a) (part of the open meetings law) requires the council’s schedule of regular meetings to be kept on file with the city clerk. If the schedule is revised, the new schedule must be on file for at least seven days before the first meeting held pursuant to it.

Rule 2. Special, Emergency, and Recessed [or Adjourned] Meetings

(a) Special Meetings.

Comment: The first paragraph of Rule 2(a) combines the special meeting notice requirements of the open meetings law found in G.S. 143-318.12(b) with the notice requirements for special meetings called by the mayor, the mayor pro tempore, or any two council members under G.S. 160A-71(b)(1). While G.S. 160A-71(b)(1) only requires that the mayor and council members receive six hours’ notice of special meetings called by the mayor, the mayor pro tempore, or two council members, this rule increases the advance notice requirement for the mayor and council members to forty-eight hours. This change recognizes that the council will want to be notified of special meetings called by a few of their number at least as far ahead of time as members of the news media and other persons on the board’s “sunshine list” are notified (forty-eight hours) [see G.S. 143-318.12(b)(2)]. A discussion of procedures and possible fees for inclusion on the “sunshine list” can be found in G.S. 143-318.12(b)(2).

In accordance with the requirements of G.S. 160A-71(b)(1), 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. An optional provision of this rule establishes an additional requirement: no items may be added to the agenda for a special meeting called in this manner unless the council determines in good faith that the item to be added must be discussed or acted on immediately. This provision is based on the following reasoning.

The open meetings law requires that the purpose of a special meeting be stated in the meeting notice. While the law contains no explicit restrictions that would prevent the board from taking up unannounced subjects at a special meeting if the requirements of G.S. 160A-71(b)(1) are met, this rule recognizes that there is probably some implicit “good faith” limit on adding unannounced subjects to the agenda. Recognizing such a limit avoids surprise to absent council members and to others who might have attended the meeting, had they known that the additional item would be placed on the agenda. It is especially appropriate *not* to consider the extra item if it could be dealt with at another special meeting scheduled with the proper forty-eight hours’ notice.

The second paragraph of Rule 2(a) deals with special meetings called or scheduled by vote

of the council in open session during another duly called meeting under G.S. 160A-71(b)(2). Under the open meetings law, forty-eight hours' advance notice of the time, place, and purpose of special meetings called in this manner must be mailed to the news media and other persons on the council's "sunshine list," as required with any other special meeting. G.S. 160A-71(b)(2) generally requires no special notice to council members of a special meeting called during another meeting, since presumably all members were present or had the opportunity to be present at the meeting where the special meeting was called or scheduled. An optional provision of this rule allows the council to go a bit beyond what the law specifies by providing notice to members who were absent from the meeting where the special meeting was scheduled.

(b) Emergency Meetings.

Comment: Rule 2(b) states the requirements of the open meetings law concerning emergency meetings [G.S. 143-318.12(b)(3)]. It adds to these requirements the two possible ways that emergency meetings might be called under G.S. 160A-71(b). The city council procedural statutes do not mention emergency meetings, so they must be considered a type of special meeting. The first method, described in G.S. 160A-71(b)(1), requires six hours' minimum notice to council members and the mayor. The second method, specified in G.S. 160A-71(b)(2), allows a meeting to be held whenever the entire council can be assembled or written waivers can be obtained from those not present, as long as the emergency meeting notice requirements are satisfied.

The third method for calling special council meetings, see G.S. 160A-71(b)(3), is not allowed for emergency meetings. Because emergency meetings are by their nature unexpected, it is assumed that they will not be called during the course of another meeting, but will be scheduled when needed using one of the other two methods.

(c) Recessed [or Adjourned] Meetings.

Comment: In Rule 2(c), note that a motion to recess (or adjourn) a meeting to a time and place certain must comply with the requirements of Rule 18 concerning procedural motions. See both the rule's general requirements and the particular requirements of Motion 2. It must be made in open session, since under the open meetings law the making of such a motion is not listed as an action that is permitted during a closed session. (See Rule 26 concerning closed sessions.) The open meetings law specifies that if proper notice was given of the original meeting, and if the time and place at which the meeting is to be continued is announced in open session, no further notice is required for the adjourned or recessed session. No notice requirements are imposed by the city council procedure statutes for adjourned or recessed sessions. As explained in the *Comment* to Rule 18, Motion 2, the terms "recess to a time and place certain" and "adjourn to a time and place certain" are both forms of the motion to adjourn, and are used interchangeably in these rules and in North Carolina law and practice. G.S. 160A-71(b1) states the terms recess and adjourn as alternatives.

The provisions of Rule 24 that concern notice of meetings to consider the budget should also be considered in conjunction with this rule.

Rule 3. Organizational Meeting

Comment: This rule states the requirements of G.S. 160A-68(a) and (b). An organizational meeting is held whenever new members are elected so that they can properly qualify for office by

taking and signing the required oath. At the same meeting a mayor pro tempore (and a mayor if that person is not separately elected by the voters) is chosen. G.S. 160A-68(b) provides that the organizational meeting shall take place notwithstanding the absence, death, refusal to serve, failure to qualify, or nonelection of one or more members, provided a quorum is present.

All public officers must take the oath of office set forth in Article VI, Section 7, of the North Carolina Constitution. Council members may also include in the oath to be taken, those provisions of the oaths set out in G.S. 11-7 and -11 that are different from the constitutional oath. Board members with questions about oaths should consult the board's attorney or the following Institute of Government publications: A. Fleming Bell, II, *Ethics, Conflicts, and Offices: A Guide for Local Officials* (Chapel Hill: Institute of Government, 1997); James Long and C. E. Hinsdale, *Oaths of Office for the Use of City, County, and State Officials in North Carolina* (Chapel Hill: Institute of Government, 1975); and Joseph S. Ferrell, "Questions I Am Frequently Asked: What Forms of Oath Should a Public Officer Take?" *Popular Government* 62 (Fall 1996): 43.

Who presides at the organizational meeting until the new mayor is sworn in is a question best resolved by local custom. In some cities the city clerk, manager, or attorney presides, and in others the retiring mayor presides until the new mayor is sworn in.

The incumbent council may fix the date and time of the organizational meeting. If it does not do so, the meeting is held on the date and at the time of the first regular meeting in December after the municipal election results have been certified under the state election laws. If the council uses the "default" time and place, G.S. 160A-68(a) may require that the organization of the council be the first thing that occurs "on the date and at the time" of the first regular meeting in December. While this rule permits the qualification of newly elected members and the election of a mayor pro tempore and (if necessary) of a mayor to be preceded by the completion of pending items of unfinished business by the incumbent council if this is the local custom, an incumbent council wishing to proceed in this manner should so specify in fixing the time and place for the organizational meeting. In this case, the swearing-in and election are the first items of "new business" on the agenda.

Rule 4. Agenda

(a) Proposed Agenda.

(b) Adoption of the Agenda.

Comment to (a) and (b): Because of the volume and complexity of the matters they must consider, most councils use an agenda for their meetings. This rule describes the typical agenda preparation procedure for regular and some special council meetings. Councils should adapt it to accommodate the special circumstances that accompany emergency and many special meetings.

Two uses of agendas are common. Some councils use an agenda only to organize the materials they must consider and to give themselves an opportunity to study the issues before they meet. These councils generally allow last-minute additions to the agenda by general consent. This rule takes that approach. Note, however, that G.S. 160A-71(b)(1) requires that all council members be present or consent in writing before additions can be made to the subjects listed on the notice of a special meeting called by the mayor, mayor pro tempore, or two council members. Also, since

the agenda of such a special meeting is set by those calling it, this rule requires those persons' consent before items may be deleted from that agenda. Note also that G.S. 143-318.12(b)(3) limits the agenda of emergency meetings to business connected with the emergency.

Other councils use their agenda to control the length of their meetings. In that case the council will often hold an agenda meeting or a work session before the regular meeting to ask questions and thoroughly explore the proposals that must be voted on at the regular meeting. Note that such an agenda meeting or work session is considered a meeting of the council for purposes of G.S. 160A-71 and the open meetings law and is subject to the regular or special meeting requirements in these rules. Generally, these councils take a stricter approach and do not allow late additions to regular meeting agendas unless an unexpected and pressing matter arises.

As noted above, at special meetings called by the mayor, mayor pro tempore, or two council members, additions may only be made to the agendas of special meetings if all members are present or those not present sign a waiver of notice. These rules also impose an additional requirement for the agendas of all special meetings, regardless of how they are called, because of open meetings law concerns. Under this approach, an item may be added to the agenda of a special meeting only if all members are present and the board determines in good faith that it is essential to discuss or act on the item immediately. This restriction avoids surprise and is consistent with the spirit of the open meetings law, although neither requirement is actually part of the law. See the statement of public policy underlying the law in G.S. 143-318.9. For further discussion of adding items to special meeting agendas, see the *Comment* to Rule 2(a).

Rule 4(a) requires that longer or more complex proposals be in writing and attached to the agenda, so that council members will have a clear idea of the issues with which they will be dealing. The council may choose what sorts of proposed orders, policies, regulations, resolutions, or other items it wishes to make subject to this requirement. The council may also require that copies of relevant documents be provided to all council members when additions to the agenda are proposed at the meeting.

Some councils also use an agenda package to provide background information about proposed agenda items to the council members. The use of such a package is optional under these rules.

City councils frequently desire to discuss an issue informally, attempting to reach a group consensus, before a formal motion is proposed. While standard parliamentary practice requires that a motion be made before any discussion can occur, conducting discussion first can be very useful to a small board such as a council. Such discussion may be especially important if the council does not hold agenda meetings or work sessions at which the members can discuss issues among themselves, before the more formal meetings at which the council generally takes action. This rule authorizes the practice of "discussing before moving" by permitting the council to designate particular agenda items "for discussion and possible action." If a motion is later made, discussion on the motion is then in order.

The city clerk or chief administrative officer may find it convenient to maintain a mailing list of interested parties who wish to receive a copy of the proposed agenda and/or agenda package

regularly. Since the background materials included with the proposed agenda in the agenda package may be quite voluminous, the council may wish to charge those receiving the full agenda package for the cost of reproduction. At the very least, the council should make provision for the public to inspect and copy the agenda package in the city offices, since the agenda package is generally a matter of public record open to public inspection.

(c) Consent Agenda.

Comment to (c): Many councils use a consent agenda as a device to handle routine business more quickly. The persons preparing the proposed agenda group together on the agenda those items that they think will be noncontroversial, routine, and unopposed. As a general rule, ordinances, controversial items, matters in which citizens may be interested, and matters of great substance should probably not be included on the consent agenda.

The council reviews the “consent agenda” as part of its review of the proposed agenda at the beginning of the meeting. Each member is free to remove items from the consent agenda to the regular agenda. A member may wish to do so if, for example, he or she would like to debate the proposal or vote against the item.

Those items remaining on the consent agenda are all handled with a single motion and vote, which is legally a motion and vote on each one of them. In keeping with this understanding, the minutes should reflect separate motions and votes on each of the consent items. For more information on consent agendas, see the publication “Consent Agenda,” available from the International Institute of Municipal Clerks, 1206 North San Dimas Canyon Road, San Dimas, CA 91773, (909) 592-4462, or on loan from the Institute of Government’s library.

(d) Open Meetings Requirements.

Comment to (d): The last paragraph of this rule paraphrases the open meetings law’s restrictions on acting by reference to agendas or other items [see G.S. 143-318.13(c)].

Rule 5. Public Address to the Council

Comment: The council may decide as a matter of general policy to set aside part of each meeting for individuals or groups to address the council, although it is not legally required to do so. This rule allows any individual or group to be placed on the proposed agenda, but reserves to the council the right to decide whether to hear its comments. If the council chooses to open the meeting for public comments on a particular issue, it must be careful not to censor individuals or groups based on their point of view on that issue, in order to avoid violating the speakers’ constitutional right to freedom of speech. For further information on public comment during board meetings, see A. Fleming Bell, II, John Stephens, and Christopher M. Bass, “Public Comment at Meetings of Local Government Boards,” Parts One and Two, *Popular Government* 62 (Summer 1997): 3–14 and (Fall 1997): 27–37, respectively.

Rule 6. Order of Business

Comment: Note that the suggested order of business places public hearings and administrative reports early in the meeting. These are the main items that involve citizens and administrative officials who may not need or wish to be present for the entire meeting. The council may also decide to place general public comment earlier on the agenda, if it reserves part of each

meeting for this purpose (see Rule 5). Unfinished business under these rules consists of matters that are carried over from a previous meeting that was adjourned before the council completed its order of business and matters that were specifically postponed to the present meeting [see Rule 18(b), Motion 11].

Rule 7. Office of Mayor

Comment: G.S. 160A-69 provides that the mayor shall have the right to vote only in cases where there are an equal number of votes in the affirmative and in the negative, unless the mayor is elected by the council from among its membership and the city charter is silent on the matter. In that case, the mayor has the right to vote on all matters. Many cities have charter provisions dealing with the mayor's voting rights; a special charter rule on mayoral voting takes precedence over the general rule in G.S. 160A-69.

If the mayor is elected by the council, he or she may serve either for a fixed period of time, such as one year, or at the council's pleasure. The city charter normally has a provision on this point as well.

The mayor or anyone presiding in the mayor's place is given substantial procedural powers by this rule. Nevertheless, those powers are not absolute. Under this rule and Rule 18, Motion 1, any council member is entitled to make a motion to appeal to the other members concerning the presiding officer's decisions regarding motions, decorum in debate, and most other procedural matters. Such a motion replaces *RONR*'s "question of order and appeal."

There are two exceptions to this right of appeal. A mayor or other presiding officer may adjourn without the board's vote or appeal in an emergency, and he or she may also call a brief recess without a vote at any time. (The latter might be necessary to "clear the air" and thus reduce friction among the members.) *RONR*, in contrast, allows a recess to be taken only with the approval of the members.

Rule 8. Office of Mayor Pro Tempore

Comment: This is G.S. 160A-70, paraphrased.

Rule 9. When the Presiding Officer Is in Active Debate

Comment: Good leadership depends, to a certain extent, on not taking sides during a debate. On a small board this may not always be feasible or desirable; yet an unfair advantage accrues to the side whose advocate controls access to the floor. This rule is designed to insure even-handed treatment to both sides during a heated debate. Ordinarily if the mayor is leading the meeting, he or she should ask the mayor pro tempore to preside in this situation, but if that person also engaged in the debate, the mayor should feel free to call on some other council member in order to achieve the purpose of this rule.

Rule 10. Action by the Council

Comment: Under standard parliamentary practice, a motion must be on the floor before a board may proceed with discussion or action. Rule 10 allows two variations, one based on Rule 4 and the other on Rule 31.

Rule 4 allows items to be placed on the agenda “for discussion and possible action.” General discussion of the agenda item may precede the making of a motion. See Rule 4 and the accompanying *Comment*.

Rule 31 specifies that the council is to make appointments using an election method, rather than by motion, in order to allow all council members to express their preferences. This method applies both to internal council appointments and to appointments to other bodies. The procedures to be followed are explained in Rule 31 and the accompanying *Comment*.

In those municipalities where the mayor may vote only to break a tie, he or she should probably not make motions. The reason for this rule is that legally the mayor is not part of the decision-making body unless a tie vote occurs. Traditionally, if a nonvoting mayor wishes to have a motion made, instead of making it personally, he or she states, “The Chair will entertain a motion that . . .” In those cities where the mayor may vote in all cases, he or she may make a motion as any other member would.

Rule 11. Second Not Required

***Note:** The suggested rule is, “A motion shall not require a second.” The Hope Mills Board of Commissioners has not adopted this rule.

Comment: The philosophy underlying the requirement of a second is that if a proposal does not have at least some minimum level of support, it is not worth the time necessary to consider it. In a group of 100 persons, for example, requiring a second ensures that at least 2 percent of the group wishes to consider the proposal. On a five-member council, on the other hand, a proposal supported by one member already has the backing of 20 percent of the council membership. If a council is small, efficient use of the council's time is not impaired by allowing consideration of a proposal that initially has the support of only one member. If a council wishes to retain the requirement of a second, however, it is free to do so.

This rule is consistent with the *RONR* concept that motions need not be seconded in meetings of smaller groups (*RONR* Sec. 48, p. 477). Moreover, even if a board uses seconds, *RONR* notes that after a debate has begun or, if there is no debate, after any member has voted, the lack of a second has become immaterial and it is too late to make a point of order that the motion has not been seconded (*RONR* Sec. 4, p. 36).

Rule 12. One Motion at a Time

Comment: None.

Rule 13. Substantive Motions

Comment: This rule sets forth the basic principle of parliamentary procedure that distinct issues will be considered and dealt with one at a time, and a new proposal may not be put forth until action on the preceding one has been concluded.

RONR does not refer to substantive motions as such; instead it refers to *main* or *principal* motions. The term *substantive motion* is used here to underscore the distinction between this type of motion and the various procedural motions listed in Rule 18. Basically, a substantive motion is

any motion other than the procedural motions listed in Rule 18. A substantive motion may deal with any subject within the council’s legal powers, duties, and responsibilities. Indeed, since Rule 10 provides that the council shall proceed by motion, the substantive motion is the only way the council can act, unless it has adopted a special rule to deal with a particular situation. (See, for example, the provisions of Rule 31 on appointments.) The procedural motions detailed in Rule 18 set forth the various options the council has in disposing of substantive motions.

Rule 14. Adoption by Majority Vote

Comment: In a few instances, these rules require a vote equal to two-thirds of the entire membership of the council for adoption of a particular motion. Also see Rule 23 concerning the number of votes necessary to adopt an ordinance, adopt a change in a zoning ordinance when a protest petition has been received, or approve a contract. Other extraordinary voting requirements imposed by particular statutes are not specified in these rules. The city attorney should be consulted as questions arise.

Rule 15. Voting by Written Ballot

Comment: The open meetings law allows public bodies such as city councils to use written ballots, *so long* as they follow the procedures set out in G.S. 143-318.13(b) and paraphrased in this rule.

Rule 16. Debate

Comment: None.

Rule 17. Ratification of Actions

Comment: Ratification of actions taken on the council’s behalf but without its prior approval is permitted under these rules, to the extent that such after-the-fact approval of actions is legally allowed. The principle behind the motion to ratify is that an assembly may subsequently approve that which it could have authorized. This rule treats the motion to ratify as a *substantive* proposal rather than as a *procedural* motion, since a ratification is in effect an after-the-fact substantive action by the council concerning something that was done without council approval when advance authorization should have been obtained.

Rule 18. Procedural Motions

(a) Certain Motions allowed.

Comment: Rule 18 reflects substantial departure from the rule in *RONR*. Each procedural motion in *RONR* was reviewed to determine whether it was appropriate for use by a small board; substantial modifications and deletions were the result. The following enumeration of procedural motions is exhaustive; if a procedural option is not on the list, then it is not available.

Procedural motions are frequently used to “act upon” a substantive motion by amending it, delaying consideration of it, and so forth. They are in order while substantive motions are pending as well as at other times.

In addition, as in *RONR*, several procedural motions can be entertained in succession without necessarily disposing of the previous procedural motion. The order of priority establishes which procedural motion yields to which—that is, which procedural motion may be made and

considered while another one is pending.

The procedural motions are summarized in table form in the appendix. Note that the appended table is intended only to provide a quick reference guide to the motions; this rule and its comments should be consulted for a discussion of how each procedural motion is used.

(b) Order of Priority of Motions.

Motion 1. To Appeal a Procedural Ruling of the Presiding Officer.

Comment: Rule 7 allows the ruling of the presiding officer on certain procedural matters to be appealed to the council. This appeal must be made as soon as the presiding officer’s decision is announced, so this motion is accorded the highest priority. See Rule 7 and its *Comment* for further discussion of this motion.

Motion 2. To Adjourn.

Comment: This motion differs from the *RONR* motion to adjourn in several respects. The *RONR* motion to adjourn is not debatable or amendable and can be made at any time, thus interrupting substantive deliberations. Here, however, since the number of members is small and procedures are available to limit debate, Motion 2 allows both debate and amendment, but specifies that the motion is in order only when consideration of a pending matter has concluded.

If the council wants to adjourn before completing final action on a matter, it must, prior to adjourning, first temporarily conclude its consideration of that matter. This is done with one of three motions: to defer consideration of the matter, to postpone the matter to a certain time or day, or to refer the matter to a committee. Only as a last resort should the council use a motion to suspend the rules, in order to allow the motion to adjourn to interrupt deliberation on the matter.

Another adjournment option is to recess (or adjourn) the meeting to reconvene at a specified time and place, in accord with Rule 2(c). The motion to recess or adjourn to a time and place certain is a form of the motion to adjourn. As explained in the *Comment to Rule 2(c)*, various North Carolina General Statutes and North Carolina practice refer both to the terminology “recess to a time and place certain” and the phrase “adjourn to a time and place certain,” [see, for example, G.S. 160A-71(b1) and 143-318.12(b)(1)]. Thus both “recess” and “adjourn” are provided here as options. The motion has the same meaning regardless of the option chosen.

Motion 3. To Take a Brief Recess.

Comment: This motion, which allows the council to pause briefly in its proceedings, is similar to the motion to recess under *RONR*. To avoid confusing this motion with the motion “to recess to a time and place certain,” which is a form of the motion to adjourn under these rules and in North Carolina practice [see Rule 18(b), Motion 2 above], Motion 3 is a “motion to take a brief recess” rather than a “motion to recess.” Since the number of council members is small, and procedures are available to limit debate, debate is allowed on this motion. A motion to take a brief recess is in order at any time except when a motion to appeal a procedural ruling of the presiding officer or a motion to adjourn is pending. Under these rules, the mayor also has the power to call a brief recess at any time [see Rule 7(d)].

Motion 4. Call to Follow the Agenda.

Comment: This motion is patterned on the call for the orders of the day in *RONR*. It differs in that it may be debated; also, unless the motion is made when the item of business that deviates from the agenda is proposed, the right to insist on following the agenda is waived for that item.

Motion 5. To Suspend the Rules.

Comment: This motion is generally the same as the *RONR* motion to suspend the rules, except that it is debatable and amendable. It is in order when the council wishes to do something that it may legally do but cannot accomplish without violating its own rules. The motion permits the council to exercise greater flexibility and perhaps informality than adhering strictly to the rules might allow. For example, the council might use this motion to allow it to consider an agenda item out of order, without formally amending the agenda that it had adopted.

A motion to suspend the rules requires approval by two-thirds of the actual membership of the council to pass. Note that the mayor is counted for purposes of determining two-thirds of the council only if he or she has the right to vote on all questions, and that vacant seats are excluded in making the two-thirds determination.

The two-thirds requirement is imposed since some council actions by statute require a two-thirds vote to pass. These actions could not be undone through a suspension of the rules unless two-thirds of the council wished to undo them.

The procedure described will pose some problems on a three-member council, because the rule can be manipulated so as to prevent one member from participating in the council's deliberations. Frequent use of the motion to prevent one member from presenting his or her proposals to the council or from speaking on an issue before the council is of doubtful legality. A three-member council may decide to require a unanimous vote for this motion to pass.

Motion 6. To Go into Closed Session.

Comment: The requirements for this motion are found in G.S. 143-318.11(c). They include extra requirements for motions based on G.S. 143-318.11(a)(1), and for those motions based on G.S. 143-318.11(a)(3) that concern a closed session where the council expects to receive advice about an existing lawsuit or lawsuits. G.S. 143-318.11(a)(1), cited in the rule, allows closed sessions “[t]o prevent the disclosure of information that is privileged or confidential pursuant to the law of [North Carolina] or the United States, or not considered a public record within the meaning of Chapter 132 of the General Statutes.” Part of G.S. 143-318.11(a)(3), also cited, allows the council in closed session to “consider and give instructions to an attorney concerning the handling or settlement of a claim, judicial action, mediation, arbitration, or administrative procedure.”

Motion 7. To Leave Closed Session.

Comment: This motion provides a procedural mechanism for returning from closed session to an open meeting. Under the open meetings law, public bodies probably must return to open session once they have concluded their closed session business, even if they have no other business to transact except adjourning the meeting.

Motion 8. To Divide a Complex Motion and Consider It by Paragraph.

Comment: This motion is the same as the two motions division of a question and consideration by paragraph in *RONR*, except that it is debatable.

Motion 9. To Defer Consideration.

Comment: This motion allows the council temporarily to defer consideration of a proposal. It may be debated and amended. A motion that has been deferred dies if it is not taken up by the council (via a motion to revive consideration, Rule 18(b), Motion 14) within a specified number of days of the vote to defer consideration. One hundred days is merely a suggested period of time. Note the restriction on making a new motion with the same effect while a motion remains deferred.

This motion should be distinguished from the motion to postpone to a certain time or day (Rule 18, Motion 11). A matter that has been postponed to a certain time or day is brought up again automatically when that time arrives. Council action (approval of a motion to revive consideration) is required, however, before the council may again consider a substantive motion of which the consideration has been deferred under this motion.

Motion 10. Motion for the Previous Question.

Comment: This motion differs from the motion of a similar name in *RONR*. The *RONR* motion is always in order, is not debatable or amendable, and requires a two-thirds vote for adoption. Thus it may be used to compel an immediate vote on a proposal without any debate on the issue. Such a device may be necessary to preserve efficiency in a large assembly. With a small board, however, a minimum period of debate on every proposal that comes before it strikes a better balance between efficiency and effective representation by all council members. Since every member will have an opportunity to speak, the debate may be ended by a majority vote. Twenty minutes is merely a suggested period of time.

Note that this rule avoids the practice followed by some boards of allowing any member to end debate by simply saying “call the question,” without the council actually taking a vote on that procedural issue. Such a practice is contrary to regular parliamentary procedures. In addition, it allows individual members to impose their will unilaterally on the group, in defiance of the principle of majority rule on which these rules are based.

Motion 11. To Postpone to a Certain Time or Day.

Comment: This motion allows the council to postpone consideration to a specified time or day and is appropriate when more information is needed or the deliberations are likely to be lengthy. It should be distinguished from the motion to defer consideration (see *Comment* to Rule 18(b), Motion 9). Note the restriction on making a new motion with the same effect while a postponed motion remains pending.

Motion 12. To Refer a Motion to a Committee.

Comment: This motion is the same as the motion of the same name in *RONR*, except that the right of the introducer to compel consideration by the full council after a specified period of time prevents using the motion as a mechanism to defeat a proposal by referring it to a committee that is willing to “sit” on it. If the council does not use committees, this motion is unnecessary.

Motion 13. To Amend.

Comment: This motion is similar to the motion to amend in *RONR* except for the additional requirement to write down amendments to longer, typically more complex items such as ordinances or resolutions, discussed below.

The restriction on amendments stated in part 13(a), second sentence, of the provisions concerning this motion should be read narrowly; it is intended only to prevent an amendment that merely negates the provisions of the original motion. The intent of such an amendment can be achieved in a simpler and more straightforward manner by the defeat of the original proposal. Pertinent amendments that make major substantive changes in the original motion are quite proper. Some councils allow a “substitute motion” when major changes in a motion are proposed. Such a motion is in effect a type of amendment. To avoid confusion, “substitute motions” are not allowed under these rules. All proposals for changes in a motion or in an amendment are treated as motions to amend, no matter how major their potential effect.

Part 13(b) of the rules governing this motion limits the number of proposed amendments that may be pending at one time to two, in order to reduce confusion. Amendments are voted on in reverse order; that is, the last-offered amendment, which would amend the first amendment, is voted on first. Once the last-offered of the two pending amendments is disposed of, an additional amendment may be offered.

Part 13(c) of the rules for this motion imposes an additional writing requirement for amendments to ordinances and other, sometimes lengthy, documents such as orders, policies, or resolutions. While the council may choose the types of items to which it wishes the writing requirement to apply, the rule assumes that amendments to proposed ordinances, like the ordinances themselves, should be in written form before they are voted on, both because of the importance of ordinances and to make it easier to maintain the required ordinance book (see G.S. 160A-78) and the minutes of the council accurately [see G.S. 160A-72 and 143-318.10(e)]. Similarly, amendments to orders, policies, and resolutions should be in written form before they are voted on, because of their significance and to make it easier to record them in the minutes.

Some councils may have a practice of requiring the person making the original motion to approve of any proposed amendments to that motion. Such a practice is not recommended. Once a motion has been offered to the council, it is up to the council to decide whether or not it should be changed by amendment. If the person making the motion does not favor a proposed amendment, he or she is free to vote against it. And so long as the original motion has not been voted on and no amendment to it has passed, the introducer is free under these rules to withdraw it (see Rule 20). If a motion has been withdrawn, the council members are generally free to make their own separate motions on the same subject.

Motion 14. To Revive Consideration.

Comment: This motion replaces the motion “to take up from the table” in *RONR* and was renamed in order to avoid confusion. This motion may be debated and amended, whereas the motion in *RONR* may not. If the motion to revive consideration is not successful within the specified number of days of the date on which consideration was deferred, the substantive motion

expires. Its subject matter may be brought forward again by a new motion. One hundred days is merely a suggested period of time; the number of days specified here should be the same as in Rule 18(b), Motion 9.

Motion 15. To Reconsider.

Comment: According to *RONR*, the motion may be made at the same meeting as the vote being reconsidered or on the next legal day and may interrupt deliberation on another matter. To avoid placing a measure in limbo, these rules restrict the availability of the motion to the same meeting as the original vote, including any continuation of that meeting if it is recessed or adjourned to a time and place certain pursuant to Rule 2(c) and Rule 18(b), Motion 2. If a member wishes to reverse an action taken at a previous meeting, he or she may generally make a new motion having the opposite effect of the prior action. Note that in some cases reversal may not be possible; for example, where rights have vested because of the original vote, or where a binding contract has already been signed in reliance on that decision. The motion to reconsider is permitted under these rules only when action on a pending matter concludes.

Motion 16. To Rescind or Repeal.

Comment: Each meeting of a city council is in many respects a separate legal event. Unless prohibited by law, a council may at a subsequent meeting “undo” action taken at a previous meeting.

It should be noted for the sake of technical correctness that while *RONR* and these rules treat the motion to rescind as a procedural motion because it acts upon a substantive motion, it is probably more correct in many ways to regard the rescission motion as a new substantive motion in its own right. The motion that it changes is a substantive motion that was adopted at a previous meeting. The substantive action has been completed, and the motion is no longer really “alive” to be modified procedurally as it was at the meeting at which it was adopted.

The motion to rescind is in order only for those measures adopted by the council that can legally be repealed or rescinded. It is not intended to suggest that the council may unilaterally rescind a binding contract, or may repeal an action where a person’s rights have already vested.

Motion 17. To Prevent Reintroduction for [Six] Months.

Comment: This is a “clincher” motion to prevent the same motion from being continually introduced when the subject has been thoroughly considered. There is no comparable motion in *RONR*, although the objection to consideration of a question accomplishes much the same purpose.

Because this motion curtails a member’s right to bring a matter before the council, the required vote is two-thirds of the actual membership of the council, excluding the mayor, unless he or she is entitled to vote on all matters, and excluding vacant seats. This supermajority requirement is imposed because such a two-thirds vote is needed for the council to adopt certain items. The same number of votes should be required if the council is to forbid dealing further with such an issue. Thus if a council has seven members, a nonvoting mayor, and no vacant seats, five members (enough to equal two-thirds or more of seven) must vote for the motion. If the same council has one vacant seat, four members (two-thirds of six) must vote for it.

As with every other motion, a clincher motion may, in effect, be dissolved by a motion to suspend the rules [see Rule 18(b), Motion 5]. Six months is merely a suggested time; the council may shorten or lengthen the time as it sees fit. In order to give a new council a clean slate, the motion is not effective beyond the next organizational meeting of the council.

Rule 19. Renewal of Motion

Comment: As noted in the *Comment* to Rule 18(b), Motion 16, in North Carolina each meeting of a city council is in many respects a separate, new event. Thus, while matters of old business may be carried over from one meeting to another, it is also the case that matters that are disposed of at one meeting may be brought up again at a subsequent meeting through a new motion, unless a motion to prevent reintroduction was previously adopted [Rule 18(b), Motion 17].

Rule 20. Withdrawal of Motion

Comment: *RONR* provides that once a motion has been stated by the presiding officer for debate, it cannot be withdrawn without the assembly's consent. Such a procedure is unnecessary for a small board. However, this rule does prohibit withdrawing motions after they have been amended. Once a motion has been amended, it is no longer the same motion as was made by the introducer, so it is no longer his or hers to withdraw.

Rule 21. Duty to Vote

Comment: This rule states most of the requirements of the first paragraph of G.S. 160A-75.

***Note:** The version of this rule adopted by the Hope Mills Board of Commissioners repeats the first paragraph of G.S. § 160A-75 verbatim.

Rule 22. Introduction of Ordinances

Comment: G.S. 160A-75 provides that an ordinance may not be finally adopted at the meeting at which it is introduced except by a two-thirds vote of all the actual membership of the council, excluding vacant seats and not including the mayor unless he or she has the right to vote on all questions before the council. The statute also specifies that an ordinance is deemed to be introduced "on the date the subject matter is first voted on by the council." A "vote on the subject matter" is not defined; some authorities think that a vote on the ordinance itself is required, while others think that any vote pertaining to the ordinance's subject matter (for example, a vote to refer the subject of an ordinance to a committee for further study) is sufficient to satisfy the definition. The city attorney should be consulted for guidance on this matter.

Rule 23. Adoption of Ordinances and Approval of Contracts

(a) Generally.

Comment: This rule paraphrases the special voting requirements in the second paragraph of G.S. 160A-75 for adoption of ordinances and approval of contracts. (Special voting rules for authorizing or committing the expenditure of public funds are also found in this paragraph. In most cases, however, these latter requirements are superseded by the more specific provisions of G.S. 159-17 detailed in Rule 24.)

See Rule 22 and the accompanying *Comment* for the definition of “introduction” of an ordinance. Although it may seem obvious that ordinances should be in writing before they are voted on (see, for example, the requirements of Rule 4(a) concerning copies of proposed ordinances), this requirement is stated explicitly so that there can be no doubt on the matter. See also Procedural Motion 13 in Rule 18(b) concerning amendment of ordinances, and G.S. 160A-76(a) for requirements for franchises, including the requirement of adoption of franchise ordinances at two regular meetings.

(b) Zoning Protest Petitions.

Comment: This paragraph states the three-fourths vote requirement of G.S. 160A-385(a), which applies when neighboring property owners, as defined in the statute, protest a proposed rezoning and file a proper petition with the city clerk in a timely manner under G.S. 160A-386. Some zoning changes such as initial zonings of property added to the ordinance’s coverage, and certain amendments to adopted special or conditional use districts, are not covered by the three-fourths vote requirement. These exceptions are specified in G.S. 160A-385(a). The three-fourths rule applies to zoning ordinances *only*.

Rule 24. Adoption of the Budget Ordinance

Comment: This rule is G.S. 159-17 with minor modifications. G.S. 159-17 also provides that no general law, city charter, or local act that is enacted or takes effect after July 1, 1973, may be construed to modify, amend, or repeal any portion of this law unless it expressly so provides by specific reference to it. Since the notice requirements of the Open Meeting Law continue to apply to meetings held to work on the budget ordinance, the only practical effect of the second paragraph of this rule is to eliminate the need for any special notification of council members concerning such meetings. Many councils find it useful procedurally when working on the budget simply to recess or adjourn a single meeting several times until they have finished their work [see Rule 2(c)].

Rule 25. Special Rules of Procedure

Comment: Some boards may wish to provide special rules for certain situations, either because of statutory requirements or other concerns.

Rule 26. Closed Sessions

Comment: This rule states some of the requirements of G.S. 143-318.11(c) for calling closed sessions. In particular, note the special requirements for motions to call closed sessions that are based on G.S. 143-318.11(a)(1) or, in some cases, on G.S. 143-318.11(a)(3). No attempt is made here to set forth all of the provisions of the open meetings law concerning the purposes for which closed sessions may be held and the actions that may be taken in closed session; specific information can be found in G.S. 143-318.11(a). Note, however, that adjournment is not an action authorized by statute to be taken during a closed session. Minutes and general accounts of closed sessions are discussed in Rule 30.

Rule 27. Quorum

Comment: This is G.S. 160A-74, with the addition of the usual definition of “majority.” Note that the mayor is counted for quorum purposes regardless of whether he or she has the right to vote on all questions.

Rule 28. Public Hearings and Public Comment Periods

(a) Public Hearings

Comment: City councils may be required or may desire to hold public hearings from time to time concerning particular matters. G.S. 160A-81 provides that public hearings may be held at any place within the city or within the county where the city is located. It also gives the council the authority to adopt reasonable rules governing the conduct of the hearing (specifically including the type of rules listed here) and to continue public hearings without further advertisement.

Public hearings, like other council meetings, are also subject to the notice, continuation, and other requirements of the open meetings law, if a majority of the council is present at the hearing, since legally such a hearing is part of a meeting of the board. Appointed or elected committees of the council are also covered by this law. These requirements are reflected in this rule. In keeping with the spirit of the open meetings law, the rule requires that all persons desiring to be present at a hearing covered by that law be given the opportunity to listen to the proceedings—outside the meeting room, if necessary—if the room is too small to accommodate all of them. Informational hearings that involve less than a majority of the council and that do not involve a council committee are discussed in the *Comment* to Rule 29.

Some councils allow staff members to schedule, call, and give notice of public hearings on the council's behalf. This rule allows for that practice, except where otherwise limited by law, but it also requires an explicit delegation of authority by the council and clear guidelines for the exercise of the delegated authority. Courts are often very particular about the procedural requirements for public hearings. It is important that the council insure that staff members are not acting “on their own” but with properly delegated authorization from the council, when they schedule, call, and give notice of public hearings.

Some councils vote to open and close public hearings, while others simply allow the mayor or other presiding officer to declare the hearing open and closed. Either practice is acceptable, and the council may choose either option as its rule.

(b) Public Comment Periods

***Note:** The version of this rule adopted by the Hope Mills Board of Commissioners is based on the adopted policy in effect at the time these rules were adopted and not on the *Suggested Rules of Procedure for a City Council*.

Comment: The requirements for holding a public comment period during a regular meeting in each month in which a regular meeting is held is found in G.S. 160A-81.1. The history of that statute and case law on public comment periods as “limited public forums” under the First Amendment to the United States Constitution both suggest that the council probably must allow a broad range of uncensored comments by *any person* on *any subject* that is within the jurisdiction of the city. The rule's authorization of regulations for public comment is based on the language in G.S. 160A-81.1, which in turn tracks similar language in G.S. 160A-81, the city public hearing

statute discussed earlier in this rule.

Since the statutorily required public comment periods must be conducted during regular city council meetings, they are subject to all notice and other requirements of the open meetings law that apply to such meetings.

Rule 29. Quorum at Public Hearings

Comment: G.S. 160A-81 implies that a quorum of council members is necessary for a public hearing by providing that a hearing shall be deferred to the next regular meeting if a quorum is not present at the originally scheduled time. If, however, the council decided to hold a public hearing that was not required by state law to gather a consensus of public opinion on an issue, it could hold the hearing at several sites, with a few members in attendance at each place. Such a hearing would not be subject to the quorum requirement of G.S. 160A-81. Note also that if a majority of the council was not present at such a hearing, it would not be subject to the notice, continuation, and other requirements of the open meetings law, unless the council members conducting the hearing were a majority of an appointed or elected council committee (see Rule 32).

Rule 30. Minutes

Comment: G.S. 160A-72 requires that full and accurate council minutes be maintained, and G.S. 143-318.10(e) requires that full and accurate minutes be kept of all official meetings of all public bodies, including closed sessions [G.S. 143-318.11(a)]. The minutes are the official legal record of council actions and are a matter of public record. To be “full and accurate,” they must include all actions taken by the council and must note the existence of conditions needed to take action, such as the existence of a quorum. However, the minutes need not record the council's discussion. Particular comments by members or other persons may be included in the minutes if the council so desires. Since the council usually takes action by motion (Rule 10), all motions that are made must be included in the minutes, along with a record of the motions' disposition. G.S. 160A-72 also allows any member to request that the minutes include a record of how each member voted (the “ayes and noes”).

Under the open meetings law, the council must also keep a “general account” of what transpires in closed sessions, so that a person not in attendance would have a reasonable understanding of what transpired. This wording probably requires that a somewhat more detailed account of these sessions be kept than would typically be found in the minutes, especially if the minutes record only actions and conditions needed to take action. The council should consult the city attorney and the bulletins mentioned in the next paragraph concerning what general accounts of closed sessions should include.

Finally, the rule includes the permission granted in G.S. 143-318.11(e) to withhold minutes and general accounts of closed sessions from public inspection for as long as necessary to avoid frustrating the purpose of the closed session. The council should vote to seal these records if it wishes to do so or is advised to do so by its attorney. It must also provide for their unsealing, either by council action or by action of an agent of the council such as the city attorney, if and when the closed session's purpose would no longer be frustrated by making these records public. For a discussion of the legal requirements for minutes and general accounts of closed sessions, see the

following publications by David M. Lawrence: “1997 Changes to the Open Meetings and Public Records Laws,” *Local Government Law Bulletin* 80 (August 1997) and “The Court of Appeals Addresses Closed Sessions for Attorney-Client Discussions,” *Local Government Law Bulletin* 93 (March 2000).

Rule 31. Appointments

***Note:** The version of this rule adopted by the Hope Mills Board of Commissioners is based on the adopted policy in effect at the time these rules were adopted and not on the *Suggested Rules of Procedure for a City Council*.

Comment: The first paragraph of this rule states some of the requirements of the open meetings law concerning appointments by the council. The options presented in the following paragraphs detail some of the possible methods that may be used to make appointments. If the council wishes to vote by written ballot, it should consult Rule 15, which states the requirements of the open meetings law for use of written ballots by public bodies.

As noted in the *Comment* to Rule 7, under G.S. 160A-69, mayors generally have the right to vote only when there are equal numbers of votes in the affirmative and the negative. In an election where appointees are being chosen, no “yes” and “no” votes are cast, and a mayor who votes only to break ties cannot vote. On the other hand, a mayor who is allowed by law to vote on all questions can vote for appointments, just as he or she can vote for anything else.

The procedure outlined uses nominations, rather than a motion and vote for each individual candidate. A nomination procedure allows all council members an opportunity both to propose and to vote for their preferred candidates, and it avoids situations such as the following.

Suppose that the Colorful City Council uses motions to appoint persons to various positions. After being recognized by the mayor, council member Smith moves to appoint candidate Green. This causes a quandary for council member Jones. She likes candidate Green, but her first preference is candidate Black. However, she is afraid that if candidate Green is defeated, another council member may be recognized to nominate candidate White, whom she dislikes intensely, before she is recognized to nominate candidate Black. Should she vote for candidate Green, improving his chances of winning, or hold out for the chance to do battle with White’s nominator in catching the mayor’s eye?

By contrast, if the Colorful Council were to follow the nomination and election procedure, it could avoid such fights and give everyone a chance to vote for the candidate of their choosing. Several councils use an appointment committee. The committee receives nominations from the council members, reviews the nominees’ qualifications, and reports its recommendations to the full council. This procedure is provided for by the optional language in the second paragraph of the rule. Many councils also use public advertisements to solicit applications for appointment from citizens.

If an appointment committee is used, at least one other voting option besides those listed in the rule is available for multiple appointments to a single board. The council may require the

appointment committee to submit a slate containing as many nominees as there are vacancies to be filled on a particular board. Each council member then votes for or against the slate as presented.

See Rule 32 concerning the applicability of the open meetings law to all council committees, including the appointment committee.

Rule 32. Committees and Boards

(a) Establishment and Appointment.

(b) Open Meetings Law.

Comment: The city council is authorized by G.S. 160A-146 to “create, change, abolish, and consolidate offices, positions, departments, boards, commissions, and agencies of the city government . . .” subject to certain limitations. It is also customary in many communities for the mayor to appoint various committees to aid the council in its work, although it is up to the council to decide whether or not the mayor will be delegated this power. The only board that mayors have statutory power to appoint are housing authorities. G.S. 157-5. Other specific statutes govern some of these committees and boards; G.S. 160A-388(a), for example, regulates establishment of and appointments to boards of adjustment. The general requirements of Rule 31 for appointments by the council should also be kept in mind.

Rule 32(b) states requirements of G.S. 143-318.10(b) and (c) (parts of the open meetings law). In determining if a group is covered by the open meetings law, whether the group is called a commission, authority, or committee is generally not important, nor does it matter who within the city government established the group.

Some ambiguities exist concerning the open meetings law’s coverage with respect to cities. For example, the law does not apply to “a meeting solely among the professional staff of a public body.” The scope and meaning of this statutory phrase is unclear. For more information on the law, see David M. Lawrence, *Open Meetings and Local Governments in North Carolina: Some Questions and Answers*, 5th ed. (Chapel Hill: Institute of Government, 1998).

Rule 33. Amendment of the Rules

Comment: City councils may generally amend their rules of procedure whenever they choose, so long as the amendment, like the rules being amended, is consistent with the city charter, general law, and generally accepted principles of parliamentary procedure. G.S. 160A-71(c). Because certain board actions require a two-thirds vote (see, for example, some of the requirements in Rule 23(a), which implements G.S. 160A-75), that standard must also be met to approve an amendment to these rules, which are the guidelines under which such actions are taken.

Rule 34. Reference to *Robert’s Rules of Order Newly Revised*

Comment: *RONR* was designed to govern a large legislative assembly, and many of its provisions may be inappropriate for small boards. Nevertheless, it is a good source of parliamentary procedure; care should simply be taken to adjust *RONR* to meet the needs of small governing boards such as city councils.

Appendix B: Permitted Procedural Motions in Order of Precedence from the *Suggested Rules of Procedure for a City Council, 3rd ed. (UNC-School of Government 2013)*¹

Motion	Vote Required²	Special Requirements
1. To Appeal a Procedural Ruling of the Presiding Officer	Majority	Is in order immediately after the presiding officer announces a procedural ruling, as specified in Rule 7, 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.
2. To Adjourn	Majority	May not interrupt deliberation of pending substantive matter. Motion to [recess] [adjourn] to a time and place certain must also comply with Rule 2(c).
3. To Take a Brief Recess	Majority	None
4. Call to Follow the Agenda	Majority	Must be made at first reasonable opportunity, or the right to make it is waived for the out-of-order item in question.
5. To Suspend the Rules	Two-Thirds	The council may not suspend provisions of the rules that state requirements imposed by law on the council.
6. To Go into Closed Session	Majority	Motion must cite one or more of the permissible purposes for closed sessions listed in G.S. 143-318.11(a) and must be adopted at an open meeting. A motion based on G.S. 143-318.11(a)(1) must 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. 143-318.11(a)(3) must identify the parties in each existing lawsuit concerning which the council expects to receive advice during the closed session, if in fact such advice is to be received.
7. To Leave Closed Session	Majority	

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| 8. To Divide a Complex Motion and Consider it by Paragraph | Majority | None |
| 9. To Defer Consideration | Majority | A substantive motion the consideration of which has been deferred expires [<u>100</u>] days thereafter unless a motion to revive consideration (Motion 14) is adopted. While a deferred motion remains pending, a new motion with the same effect cannot be introduced.
CAUTION: Do not confuse with Motion 11. |
| 10. Motion for the Previous Question | Majority | Not in order until there have been at least [<u>20</u>] minutes of debate, and every member has had an opportunity to speak once. |
| 11. To Postpone to a Certain Time or Day | Majority | None. While a postponed motion remains pending, a new motion with the same effect cannot be introduced. CAUTION: Do not confuse with Motion 9. |
| 12. To Refer a Motion to a Committee | Majority | [<u>60</u>] days or more after a motion is referred to a committee, the introducer may compel consideration of the measure by the council, regardless of whether the committee has reported the matter to the council. |
| 13. To Amend | Majority | (a) Amendments must be pertinent to the subject matter of the motion being amended. An amendment is improper if adoption of the motion with that amendment added has the same effect as rejection of the original motion. A proposal to substitute a different motion 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 must be reduced to writing before the vote on the amendment. |
| 14. To Revive Consideration | Majority | In order at any time within [<u>100</u>] days after the day of a vote to defer consideration (Motion 9). Failure to adopt Motion 14 within the [<u>100</u>] day period results in expiration of the |

deferred substantive motion.

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| 15. To Reconsider Majority | 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).
May only be made at the meeting at which the original vote was taken, including any continuation of that meeting through [recess] [adjournment] to a time and place certain. Cannot interrupt deliberation on a pending matter, but is in order at any time before final adjournment of the meeting. |
| 16. To Rescind or Majority Repeal | Not in order if rescission or repeal of an action is forbidden by law. |
| 17. To Prevent Reintroduction for [Six] Months | Two-Thirds
In order immediately following defeat of a substantive motion and at no other time. If adopted, the restriction imposed by the motion remains in effect for [six] months or until the next organizational meeting of the council, whichever occurs first. |

1. Under these rules all procedural motions are debatable and none requires a second. All may be amended, subject to the stated limitations on motions to amend (Motion 13). Except where indicated otherwise, procedural motions may interrupt deliberations on a pending substantive matter.

2. The required vote for adoption of a procedural motion is generally a majority of the votes cast, a quorum being present. In a few cases, the required vote is a vote equal to two-thirds of the actual membership of the council, excluding the mayor, unless he or she may vote in all cases, and vacant seats.