

Rules of Procedure for the Board of County Commissioners

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Orange County
North Carolina

***Principles of
Parliamentary Law***

- *Justice and courtesy for all*
- *Majority rules*
- *Right of the minority to be heard*
- *Protection of the rights of the individual and the absentee*
- *Consideration of one thing at a time*
- *Maintain order*
- *Expedite business*
- *Partiality to no one*

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Orange County, North Carolina

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Rules of Procedure for the Board of County Commissioners

Introduction

These rules of procedure were designed for use by a North Carolina board of county commissioners. Essentially, the rules are a modified version of *Robert's Rules of Order, Revised*. *Robert's Rules* is intended to guide the deliberations of a large legislative body; consequently, it is not always appropriate for a small governing board, which can afford to proceed with much less formality. Another valuable resource consulted for this revision of the rules was *Mason's Manual of Legislative Procedure*. *Mason's Manual* is intended primarily for state legislatures, but its extensive discussion of the basic principles of parliamentary law and procedure is valuable for local governing boards as well.

These rules apply to all meetings of the Orange County Board of Commissioners at which the Board is empowered to exercise any of the executive, administrative or legislative powers conferred on it by law.

The North Carolina law (G.S. 153A-41) permits a board of county commissioners to adopt its own rules of procedure if these conform to "generally accepted principles of parliamentary procedure" and do not conflict with applicable law. *Mason's Manual* suggests that parliamentary law affecting the work of a board of county commissioners can be summarized in ten basic principles:

1. *The board can take only those actions that it has authority or jurisdiction to take.* A corollary of this principle is that the board's action, to be valid, must not violate any applicable law or constitutional provision. This is simply another manifestation of the familiar legal doctrine that a unit of local government has only those powers conferred on it by law or necessarily implied from some specific grant of power.
2. *The board must meet in order to act.* Under North Carolina law, the powers conferred on the county governing board are exercised by the county board of commissioners as a group, not its individual members. Therefore, the group must meet in order to act.

3. *All board members must receive proper notice of meetings.* Since all members are equally entitled to participate in board meetings, each member must be properly notified of the place, time, and purpose of meetings.
4. *The board may act only with a quorum.*
5. *There must be a question before the board on which it can decide.* Except when electing their own officers or balloting for appointments, legislative bodies proceed by voting *yes* or *no* on specific proposals put forward by one or more members. Each member has a right to know at all times what question is before the board and what effect a *yes* or *no* vote would have on that question.
6. *There must be opportunity for debate.* The very nature of a deliberative body requires that members share information and opinion about matters before the board.
7. *Questions must be decided by vote.* Legislative bodies do not decide matters by discussing them until a consensus emerges.
8. *Votes are decided by majority.* Usually only a simple majority of votes cast suffices, but the board's rules or an applicable law may sometimes require an extraordinary majority.
9. *There must be no fraud, trickery, or deception in the board's proceedings.*
10. *The board's rules of procedure must be applied consistently.*

Most of the following rules have been modified to suit local needs and customs. The comments following the rules note when rules state procedures required by law (North Carolina General Statutes, hereinafter cited as G.S.).

I. Applicability

Rule 1. Applicability of Rules. These rules apply to all meetings of the Board of Commissioners of Orange County at which the board is empowered to exercise any of the executive, quasi-judicial, administrative, or legislative powers conferred on it by law.

Comment: On the whole, rules of procedure of a governing board are intended to govern formal meetings of the board where it will exercise any of its executive and legislative powers. These rules fulfill that purpose and also are designed to ensure board compliance with the Open Meetings Law, G.S. 143-318.9 through 318.18, which applies to any gathering of a majority of

the board to discuss public business. The rules also apply to informal work sessions or committee meetings where public business is discussed but no official action is taken.

II. Open Meetings

Rule 2. Meetings to be Open. (a) It is the public policy of North Carolina and of Orange County that the hearings, deliberations, and actions of this board and its committees be conducted openly.

(b) Except as otherwise provided in these rules and in accordance with applicable law, each official meeting of the Orange County Board of Commissioners shall be open to the public and any person is entitled to attend such meeting.

Comment: See G.S. 143-318.10(a).

(c) For the purposes of the provisions of these rules concerning open meetings, an official meeting of the board is defined as any gathering together at any time or place or the simultaneous communication by conference telephone or other electronic means of a majority of board members for the purpose of conducting hearings, participating in deliberations, or voting upon or otherwise transacting public business within the jurisdiction, real or apparent, of the board.

Comment: See G.S. 143-318.10(d). The Open Meetings Law provides that a social meeting or other informal assembly or gathering together of the members of the board does not constitute an official meeting unless it is "called or held to evade the spirit and purposes" of the laws requiring meetings to be open.

Rule 3. Closed Sessions. (a) Notwithstanding the provisions of Rule 2, the board may hold a closed session for the reasons listed below. It is the policy of the state of North Carolina that closed sessions shall be held only when required to permit a public body to act in the public interest as permitted in this section. A public body may hold a closed session and exclude the public only when a session is required:

1. To prevent the disclosure of information that is privileged or confidential pursuant to the law of this State or of the United

States, or not considered a public record within the meaning of Chapter 132 of the General Statutes.

2. To prevent the premature disclosure of an honorary degree, scholarship, prize, or similar award.
3. To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged. General policy matters may not be discussed in a closed session and nothing herein shall be construed to permit a public body to close a meeting that otherwise would be open merely because an attorney employed or retained by the public body is a participant. The public body may consider and give instructions to an attorney concerning the handling or settlement of a claim, judicial action, mediation, arbitration, or administrative procedure. If the public body has approved or considered a settlement, other than a malpractice settlement by or on behalf of a hospital, in closed session, the terms of that settlement shall be reported to the public body and entered into its minutes as soon as possible within a reasonable time after the settlement is concluded.
4. To discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body, including agreement on a tentative list of economic development incentives that may be offered by the public body in negotiations, or to discuss matters relating to military installation closure or realignment. Any action approving the signing of an economic development contract or commitment, or the action authorizing the payment of economic development expenditures, shall be taken in an open session.
5. To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease; or (ii) the amount of compensation and other material terms of an employment contract or proposed employment contract.
6. To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee. General personnel policy issues may not be considered in a closed session. A public body may not consider the qualifications, competence, performance,

character, fitness, appointment, or removal of a member of the public body or another body and may not consider or fill a vacancy among its own membership except in an open meeting. Final action making an appointment or discharge or removal by a public body having final authority for the appointment or discharge or removal shall be taken in an open meeting.

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7. To plan, conduct, or hear reports concerning investigations of alleged criminal misconduct.

8. To formulate plans by a local board of education relating to emergency response to incidents of school violence or to formulate and adopt the school safety components of school improvement plans by a local board of education or a school improvement team.

9. To discuss and take action regarding plans to protect public safety as it relates to existing or potential terrorist activity and to receive briefings by staff members, legal counsel, or law enforcement or emergency service officials concerning actions taken or to be taken to respond to such activity.

(b) The board may go into closed session only upon a motion made and duly adopted at an open meeting. This motion must cite one or more of the permissible purposes listed in subsection (a) of this rule. In addition, a motion to go into closed session pursuant to Rule 3 (a)(1) must state the name or citation of the law that renders the information to be discussed privileged or confidential, and a motion to go into closed session pursuant to Rule 3 (a)(3) must identify the parties in each existing lawsuit, if any, concerning which the board expects to receive advice during the closed session.

(c) The board shall determine who shall attend the closed session. The county manager, county attorney and clerk to the board shall attend all closed sessions unless otherwise determined by the board. The board shall determine other necessary attendees as the facts and the circumstances dictate. With respect to a closed session to consult with the county attorney or another attorney employed by or retained by the county, in order to preserve the attorney-client privilege between the attorney and the board, the board shall not permit a person to attend the closed session if that person's attendance would defeat the attorney-client privilege.

(d) The board shall conclude a closed session and return to open session upon a motion made and adopted to do so.

III. Organization of the Board

Rule 4. Organizational Meeting. The board shall hold an organizational meeting at its regular meeting place at 7:00 p.m. on the first Monday in December of each year. The former chair shall call the meeting to order and shall preside until a chair is elected. The agenda shall be as follows: (1) special recognition of any outgoing commissioners, (2) taking and subscribing the oath of office by the newly elected members of the board, (3) election of a chair and vice-chair, (4) designation of voting delegate for all NCACC and NACo meetings, (5) seating arrangement and (6) appointment of the manager, clerk and county attorney. The bonds of the Register of Deeds and the Sheriff shall be approved as part of the consent agenda.

Comment: This rule incorporates the requirements of G.S. 153A-26 concerning the times for organizational meetings and the qualifications of new members and the requirements of G.S. 153A-39 concerning the election of the chair and the vice-chair, G.S. 161-4 (for the Register of Deeds), G.S. 162-9 (for the Sheriff), require the board to approve the bonds of these officials.

G.S. 153A-26 provides that the oath of office is that prescribed by Article VI, Section 7, of the North Carolina Constitution (see also G.S. 11-6 and G.S. 11-7) and may be administered by any person authorized by law to administer oaths. The written statement of the oath shall be signed by each new member and filed with the clerk to the board. The statute also provides that a new member who cannot be present at the organizational meeting may take and subscribe the oath later.

Rule 5. Election of the Chair. The chair of the board shall be elected annually for a term of one year and shall not be removed from the office of chair unless he or she becomes disqualified to serve as a member of the board.

Comment: G.S. 153A-39 provides for the election of a chair and states that he or she is chosen “for the ensuing year.”

IV. Regular and Special Meetings

Rule 6. Regular and Special Meetings.

(a) Regular Meetings. The board usually holds a regular meeting on the first and third Tuesday of each month in accordance with the “Board Calendar of Meetings” approved by the board. All meetings shall begin at 7:00 p.m. unless otherwise noted on the “Calendar of Meetings.” The board may change the place or time of any meeting listed on the approved “Calendar of Meetings” by a majority vote, and have it posted and noticed no less than seven days before the change takes effect. A notice shall be filed with the clerk to the board and posted, online, on the principal bulletin board of the county, and at or near the regular meeting place, and notices shall be sent to all persons who have requested notice of special meetings of the board.

(b) Special Meetings. The chair or a majority of the members of the board may at any time call a special meeting of the board by signing a notice stating the time and place of the meeting and the subjects to be considered. The person or persons who call the meeting shall cause the notice to be posted on the principal bulletin board of the county, located at the Link Government Services Center in Hillsborough, and at or near the meeting place, and delivered to the chair and all other board members or left at the usual dwelling place of each member at least 48 hours before the meeting. In addition, the notice shall be mailed or sent by e-mail to individual persons and news media organizations who have requested such notice as provided in subsection (e), below. Only those items of business specified in the notice may be transacted at a special meeting, unless all members are present or those who are not present have signed a written waiver.

A special meeting may also be scheduled by vote of the board in open session during another duly called meeting. The motion calling for a special meeting shall specify its time, place, and purpose. At least 48 hours before the meeting, the notice shall be posted on

the principal bulletin board of the county and at the regular meeting place, and delivered to all board members not present at the meeting at which the special meeting was called. Only items of business specified in the motion calling for the special meeting may be transacted at a special meeting called in this matter unless all members are present and the board determines in good faith at the meeting that it is essential to discuss or act on the additional item immediately.

Comment: See G.S. 153A-40(a) and G.S. 143-318.12(b)(2).

(c) Emergency Meetings. The chair or a majority of board members may at any time call an emergency meeting of the board by signing a written notice stating the time and place of the meeting and the subjects to be considered. Written or oral notice of the meeting shall be given to each board member and to each news organization that has filed a written emergency meeting notice request with the clerk to the board, and whose request includes that organization's telephone number. Only business connected with the emergency may be considered at an emergency meeting.

(d) Work Sessions, Committee Meetings or other Informal Meetings. The chair or a majority of the board members may schedule work sessions, committee meetings or other informal meetings of the board or of a majority of its members at such times and concerning such subjects as may be established by the board. The times and subject matter may be established by resolution or order of the board. A schedule of any such meetings that are held on a regular basis shall be filed in the same place and manner as the schedule of regular meetings. Work sessions and other informal official meetings not held regularly are subject to the same notice requirements as special board meetings.

(e) Sunshine List. Any individual person and any newspaper, wire service, radio station, and television station may file with the Clerk to the Board of Commissioners a written request for notice of all special meetings of the board. These are meetings not listed on the regular "Calendar of Meetings." Orange County maintains an online list service in which anyone may add their email address to receive meeting notices at no charge.

Comment: The Open Meetings Law requires that any “official meeting” at which a majority of the board deliberates on public business must be open to the public and notice must be given. The last sentence of the rule embodies that principle. The rule goes beyond the Open Meetings Law in requiring a published schedule of work sessions or committee meetings held on a regular basis.

G.S. 143-318.13(a) provides that if the board holds any regular, special, emergency, or other official meeting by use of conference telephone or other electronic means, the clerk shall provide a location and means whereby members of the public may listen to the meeting and notice of the meeting shall specify that location.

Rule 7. Location of Meetings. All meetings shall be held within the boundaries of Orange County except as otherwise provided herein.

1. A joint meeting with the governing board of any other political subdivision of this state or any other state may be held within the boundaries of either subdivision as may be stated in the call of the meeting. At any such joint meeting, the board reserves the right to vote separately on all matters coming before the joint meeting.
2. A special meeting called for the purpose of considering and acting upon any order or resolution requesting members of the General Assembly representing all or any portion of this county to support or oppose any bill pending in the General Assembly or proposed for introduction therein may be held in Raleigh or such other place as may be stated in the call of the meeting.
3. A meeting may be held in connection with a retreat, forum, or similar gathering solely for the purpose of providing members of the board with general information relating to the performance of their public duties.
4. A meeting may be held while in attendance at a convention, association meeting, or similar gathering solely to discuss or deliberate the board’s position concerning convention resolutions, elections of association officers, and similar issues that are not legally binding upon the board or its constituents.

Comment: See G.S. 153A-40(c). That statute also speaks of two other categories of gatherings that may be held outside the boundaries of the county: retreats, and meetings with the legislative delegation representing the county in the General Assembly. The statute expressly forbids the board to take any official action at any such meetings, so they are not mentioned in the proposed rule. However, such meetings are covered by the Open Meetings Law if a majority of the board is present and “deliberates” on public business.

V. Agenda

Rule 8. Agenda. (a) The county manager shall prepare the agenda for each regular, special and emergency meeting subject to review and approval by the chair and vice-chair. A request to have an item of business placed on the agenda must be received by 12:00 noon, Monday of the week prior to the meeting. Any Board member may petition the Board to have an item placed on the agenda.

(b) The agenda packet for regular meetings shall include the agenda document, any proposed ordinances or amendments to ordinances, and supporting documentation and background information relevant to items on the agenda. A copy of the agenda packet shall be provided to each member of the board at least ninety-six hours before the meeting. Documents in the agenda packet, if not previously available for public inspection, shall become so when packets have been provided to each board member or left at his or her usual dwelling. Copies shall be available for members of the public in the clerk’s office and at the Orange County Main Public Library. The agenda is also published on the county’s web site, orangecountync.gov.

For all other meetings (special, work sessions, etc.) a copy of the agenda and attachments shall be available to members of the public on the Orange County website prior to the meeting (usually 48-72 hours before the meeting).

The clerk’s office shall post agendas for regular meetings, public hearings and work sessions on the county’s website within 24 hours after they are distributed to the Board of Commissioners by the county manager’s office.

(c) The board may, by approval of a majority of its members, i.e. an affirmative vote equal to a quorum, add an item at the meeting that is not on the agenda.

Comment: Because of the increased volume and complexity of the matters they must consider, nearly all boards use an agenda. Some boards use an agenda only to organize the material they must consider and to give themselves an opportunity to study the issues before they meet. These boards generally allow last-minute additions to the agenda by general consent. This rule takes that approach. Other boards use their agenda to control the length of their meetings. Often a board that uses its agenda for this purpose will hold a work session before the regular meeting to ask questions and thoroughly explore the proposals that must be voted on at the regular meeting. Generally these boards take a stricter approach and do not allow late additions to the agenda unless an emergency exists.

Rule 9. Public Comments - Items Not on the Printed Agenda. The county manager shall include on the agenda of each regular meeting a time for comments or questions from members of the public in attendance. The chair will first recognize individuals or groups who have signed up to be heard, and then may recognize others, subject to available time. Speakers will be allowed three minutes each up to an hour total. After the hour set aside for public comments has expired, the chair will recognize further speakers only upon motion duly made and adopted.

Petitions/Resolutions/Proclamations and other similar requests submitted by the public will not be acted upon by the Board of Commissioners at the time presented. All such requests will be referred for Chair/Vice Chair/Manager review and for recommendations to the full Board at a later date regarding a) consideration of the request at a future regular Board meeting; or b) receipt of the request as information only. Submittal of information to the Board or receipt of information by the Board does not constitute approval, endorsement, or consent.

Comment: The board may decide as a matter of general policy to set aside part of each meeting for individuals or groups to address the board. The rule allows any individual or group to get on the agenda but lets the board decide whether there is time to hear its comments.

Rule 10. Order of Business.

(a) Regular Meetings. For all regular meetings, items shall be placed on the agenda as listed below:

1. Additions or Changes to the Agenda
Public Charge
2. Public Comments (Limited to One Hour)
3. Announcements and Petitions by Board Members (Three Minute Limit Per Commissioner)
4. Proclamations/Resolutions/Special Presentations
5. Public Hearings
6. Regular Agenda
7. Reports
8. Consent Agenda
 - Removal of Items from Consent Agenda
 - Approval of Remaining Consent Agenda
 - Discussion and Approval of the Items Removed from the Consent Agenda
9. County Manager's Report
10. County Attorney's Report
11. Appointments
12. Information Items
13. Closed Session
14. Adjournment

If there is no objection, the chair may call items in any order most convenient for the dispatch of business. The meeting will end at 10:30 p.m. unless there is a majority vote of the Board to continue beyond that time.

(b) Order of Business for Public Hearings

1. Opening Remarks from the Chair
2. Public Charge
3. Public Hearing Items
4. Adjournment

(c) Public Charge. A public charge may be read at each meeting to set the tone for civil decorum. The public charge is placed on the agenda immediately after item 1, "Additions or Changes to the Agenda" and it shall read:

The Board of Commissioners pledges its respect to all present. The Board asks those attending this meeting to conduct themselves in a respectful, courteous manner toward each other, county staff and the commissioners. At any time should a member of the Board or the public fail to observe this charge, the Chair will take steps to restore order and decorum. Should it become impossible to restore order and continue the meeting, the Chair will recess the meeting until such time that a genuine commitment to this public charge is observed.

The BOCC asks that all electronic devices such as cell phones, pagers, and computers should please be turned off or set to silent/vibrate.

Please be kind to everyone.

VI. Conduct of Debate

Rule 11. Powers of the Chair. The chair shall preside at all meetings of the board if he or she is present. If the chair is absent, the vice-chair shall preside. If both the chair and vice-chair are absent, another member designated by vote of the present board members shall preside. A member must be recognized by the presiding officer in order to address the board. The chair shall have the following powers:

1. To rule on points of parliamentary procedure, including the right to rule out of order any motion patently offered for obstructive or dilatory purposes;
2. To determine whether a speaker has gone beyond reasonable standards of courtesy in his or her remarks and to entertain and rule on objections from other members on this ground;
3. To entertain and answer questions of parliamentary law or procedure;
4. To call a brief recess at any time;
5. To adjourn in an emergency.

A decision by the presiding officer under any of the first three powers listed above may be appealed to the board upon motion of any member. Such a motion is in order immediately after a decision under those powers 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.

Comment: The chair normally presides at board meetings. In his or her absence, the vice-chair, if there is one, presides. If there is no vice-chair, or if both the chair and vice-chair are absent, the board typically selects a temporary presiding officer.

The board may choose whether the chair always votes or votes only to break a tie. Someone who is temporarily presiding in the chair's place is still a full member of the board and thus entitled to make motions and to vote.

The chair or anyone presiding in the chair's place has substantial procedural powers, but those powers are not absolute. Under this rule and Rule 15, any board member is entitled to make a motion to appeal to the other members concerning the presiding officer's decisions on motions, decorum in debate and most other procedural matters.

There are two exceptions to this right of appeal. A chair 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, when necessary to "clear the air" and thus reduce friction among the members.

Rule 12. Presiding Officer when the Chair is in Active Debate.

If the chair wishes to become actively engaged in debate on a particular proposal, he or she shall designate another board member to preside. The chair shall resume the duty to preside as soon as action on the matter is concluded.

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 ensure evenhanded treatment to both sides during a heated debate. Ordinarily the chair should call on the vice-chair to preside if he or she finds it necessary to step aside.

Rule 13. Action by the Board. The board shall proceed by motion. Any member, including the chair, may make a motion. If two or more Commissioners speak at the same time to make a motion (or second), the chair shall determine, for purposes of recording action for the minutes, which name the clerk shall use.

Comment: The chair may make motions, or the chair may invite another member to make a motion by saying “The chair will entertain a motion that...”

Rule 14. Second Required. A motion shall require a second, followed by discussion and/or comments and a vote.

Comment: The philosophy underlying the requirement of a second is that if a proposal is not supported by at least two members, it is not worth the time it would take to consider the matter. A second does not necessarily mean that a member agrees with the motion, but that the member wishes the matter open to discussion. A second allows the matter to be discussed further.

Rule 15. One Motion at a Time. A member may make only one motion at a time.

Rule 16. Substantive Motion. A substantive motion is out of order while another substantive motion is pending.

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

Robert’s Rules of Order does not refer to substantive motions as such; instead it uses such adjectives as “main” or “principal.” Here, a substantive motion is any motion other than the procedural motions listed in Rule 19. The possible subject matter of a substantive motion coexists with the board’s legal powers, duties, and responsibilities. Indeed, since Rule 13 provides that the board shall proceed by motion, the substantive motion is the board’s exclusive mode of action. The procedural motions detailed in the following rules set forth the board’s various options in disposing of substantive motions.

Rule 17. Adoption by Majority Vote. A motion shall be adopted if approved by a majority of the votes cast, a quorum being present, unless an extraordinary majority is required by these rules or the laws of North Carolina. A majority is more than half. A quorum is a majority of the actual membership of the board, including any vacant seats. 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 18. Debate. The chair shall state the motion and then open the floor to debate, presiding over the debate according to these general principles:

1. The member making the motion or introducing the ordinance, resolution, or order is entitled to speak first.
2. A member who has not spoken on the issue shall be recognized before someone who has already spoken.
3. To the extent possible, the debate shall alternate between opponents and proponents of the measure.

Rule 19. Procedural Motions. (a) In addition to substantive proposals, the procedural motions listed in subsection (b) of this rule, and no others, shall be in order. Unless otherwise noted, each motion is debatable, may be amended, and requires a majority vote for adoption.

Comment: This rule substantially departs from *Robert's Rules of Order*. Each procedural motion in *Robert's Rules of Order* 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, it is not available.

(b) In order of priority (if applicable), the procedural motions are:

Comment: While a substantive motion is out of order if another substantive motion is pending, several procedural motions can be entertained in succession without necessarily disposing of the immediately pending one. The order of the list below establishes which procedural motion yields to which—for example, a move to defer consideration (6) may be made while a move to refer to committee (9) is pending because (6) ranks higher on the list.

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 11. 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.

Comment: Rule 11 allows the ruling of the presiding officer on certain procedural matters to be appealed to the board. 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 11 and its comment for further discussion of this motion.

2. *To Adjourn.* The motion may be made at the conclusion of action on a pending matter; it may not interrupt deliberation of a pending matter.

Comment: This motion differs from the *Robert's Rules of Order* motion in several respects. In *Robert's Rules of Order*, it is not debatable or amendable and can be made at any time, even interrupting substantive deliberations. In view of the small number of members and the available procedures to limit debate, this rule allows debate and amendment of the motion to adjourn but allows the motion to adjourn only when action on a pending matter is over. The motion to defer consideration or to postpone to a certain time or day may be used if the board wants to adjourn before completing action on a matter.

3. *To Take a Recess.*

Comment: *Robert's Rules of Order* does not allow debate on this motion, but since the number of members is small and procedures to limit debate are available, this rule allows debate on the motion. As in *Robert's Rules of Order*, the motion is in order at any time. Note that under Rule 11, the chair also has the power to call a brief recess.

4. *To Call to Follow the Agenda.* The motion must be made at the first reasonable opportunity or it is waived.

Comment: This motion differs from the call for the orders of the day in *Robert's Rules of Order*: it may be debated and must be made when an item of business that deviates from the agenda is proposed or the right to insist on following the agenda is waived for that item.

5. *To Suspend the Rules.* The motion requires a vote equal to a quorum.

Comment: This motion differs from *Robert's Rules of Order* in that it is debatable and amendable and the number of necessary votes is a quorum rather than two-thirds. Thus if a board has seven members, four members (a quorum) must vote for the motion; if only four members are present at a particular meeting, all four must vote for the motion in order to adopt it. This motion is in order when the board wishes to do something that it may legally do but cannot without violating its own rules. The procedure will pose some problems for a three-member board, as it can be used to prevent one member from participating in the board's deliberations. Frequent use of the motion to prevent one member from presenting proposals to the board or from speaking on an issue before the board is of doubtful legality. A three-member board may decide to require a unanimous vote to suspend the rules.

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

Comment: This motion is the same as the division of a question and consideration by paragraph in *Robert's Rules of Order* except that it is debatable.

7. *To Defer Consideration.* The board may defer a substantive motion for later consideration at an unspecified time. A substantive motion that has been deferred expires 100 days thereafter, unless a motion to revive consideration is adopted.

Comment: This motion, which replaces the motion to lay on the table in *Robert's Rules of Order*, was renamed to avoid confusion. It allows the board temporarily to defer consideration of a proposal. It differs from *Robert's Rules of Order* in that it may be debated and amended, and in that a motion that has been deferred dies if it is not taken up by the board (via a motion to revive consideration) within one hundred days of the vote to defer consideration. (In *Robert's Rules of Order* a motion laid on the table dies at the end of the particular session of the assembly.) One hundred days is the suggested period of time for deferring consideration because it is also the time within which a proposed ordinance must be enacted (see Rule 27).

8. *To Call the Previous Question.* The motion is not in order until there has been a debate and every member has had one opportunity to speak.

Comment: This motion differs from the motion in *Robert's Rules of Order*. The *Robert's Rules of Order* 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, but with a small board, a minimum period of debate on every proposal that comes before the board strikes a better balance between efficiency and effective representation by all board members. Since every member will have an opportunity to speak, the debate may be ended by a majority vote.

9. *To Postpone to a Certain Time or Day.*

Comment: This motion allows the board to defer consideration to a specified time or day and is appropriate when more information is needed or the deliberations are likely to be lengthy.

10. *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.

Comment: This motion is identical with the motion of the same name in *Robert's Rules of Order* except that the introducer's right to compel consideration by the full board after a specified period of time prevents using the motion to defeat a proposal by referring it to a committee that intends to take no action on it. If the board does not use committees, this rule is unnecessary.

11. *To Amend.* An amendment to a motion must be pertinent to the subject 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. There may be an amendment to the motion and an amendment to an amendment, but no further amendments. Any amendment to a proposed ordinance shall be reduced to writing. A vote on a motion to amend a motion may be

regarded as a vote on the motion as amended if that is determined to be the intent of the board.

Comment: This motion is identical to the motion of the same name in *Robert's Rules of Order* except for the requirement for written amendments to proposed ordinances.

12. *To Revive Consideration.* The motion is in order at any time within one hundred days of a vote deferring consideration of it. A substantive motion on which consideration has been deferred expires one hundred days after the deferral, unless a motion to revive consideration is adopted.

Comment: This motion replaces the motion to take up from the table in *Robert's Rules of Order* and was renamed in order to avoid confusion. This motion may be debated and amended; the motion in Robert's Rules of Order may not. If the motion to revive consideration is not successful within 100 days of the original deferral date, the substantive motion expires. The subject matter of the motion may be brought forward again by a new motion.

13. *To Reconsider.* The board may vote to reconsider its action on a matter. The motion to do so must be made by a member who voted with the prevailing side (the majority, except in the case of a tie; in that case the "nos" prevail) and only at the meeting during which the original vote was taken, including any continuation of that meeting through recess to a time and place certain. The motion cannot interrupt deliberation on a pending matter but is in order at any time before final adjournment of the meeting. If a member wishes to reverse an action taken at a previous meeting, he or she generally may make a new motion having the opposite effect of the prior action.

Any new motion having the opposite effect of the prior action that is related to the board issuing or not issuing a permit may be considered only where new evidence is presented to the board concerning the permit and all pertinent ordinance requirements, substantive and procedural, including those related to public hearings, have been met. Any new motion having the opposite effect of the prior action that relates to an ordinance may only be considered consistent with pertinent ordinance requirements, substantive and procedural, including those related to public hearings.

Comment: According to *Robert's Rules of Order*, the motion may be at the same meeting or on the next legal day and may interrupt deliberation on another matter. The rule does not allow reconsideration of a vote once the meeting adjourns. A member wishing to reverse an action taken at a previous meeting may make a motion or introduce a new ordinance having the opposite effect, consistent with public hearing requirements of North Carolina Law.

14. *To Prevent Reconsideration for Six Months.* The motion shall be in order immediately following the defeat of a substantive motion, and at no other time. The motion requires a vote equal to a quorum and is valid for six months or until the next regular election of county commissioners, whichever occurs first.

Comment: This clincher motion prevents the same motion from being continually introduced when the subject has been thoroughly considered. Because this motion curtails a member's right to bring a matter before the board, a vote equal to a quorum is required. As with every other motion, a clincher may be dissolved by a motion to suspend the rules. Six months is merely a suggested time; the board may shorten or lengthen the time as it sees fit. In order to give a new board a clean slate, the motion is not effective beyond the next regular election.

Rule 20. Renewal of Motion. A defeated motion may not be renewed at the same meeting.

Rule 21. Withdrawal of Motion. A motion may be withdrawn by the introducer at any time before it is amended or before the chair puts the motion to a vote, whichever occurs first.

Comment: *Robert's Rules of Order* provides that once a motion has been stated by the chair for debate, it cannot be withdrawn without the assembly's consent. Such a procedure is unnecessary for a small board.

VII Quorum and Other Rules

Rule 22. Duty to Vote. It is the duty of each member to vote unless excused by a majority vote according to law. The board shall excuse members from voting on matters involving their own financial interest or official conduct as provided by law. A

member who wishes to be excused from voting shall so inform the chair, who shall take a vote of the remaining members. No member shall be excused from voting except in cases involving conflicts of interest, as defined by the board or by law, or the member's official conduct, as defined by the board. In all other cases, a failure to vote by a member who is physically present in the meeting, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an affirmative vote.

Comment: G.S. 153A-44 provides that board members have a duty to vote, but does not state the remedy for failure to do so. Many boards record all members as voting yes on any matter put to vote unless members audibly vote no. A few boards reverse the presumption and record members as voting no unless they audibly vote yes.

Rule 23. Prohibition of Secret Voting. No vote may be taken by secret ballot. If the board decides to vote by written ballot, each member shall sign his or her ballot and the minutes shall record the vote of each member. These ballots shall be retained and made available for public inspection until the minutes of that meeting have been approved, at which time they may be destroyed.

Comment: See G.S. 143-318.13(b)

Rule 24. Action by Reference. The board shall not deliberate, vote, or otherwise act on any matter by reference to an agenda or document number unless copies of the agenda or documents being referenced are available for public inspection at the meeting and are so worded that people at the meeting can understand what is being discussed or acted on.

Comment: See G.S. 143-318.13(c).

Rule 25. Introduction of Ordinances, Resolutions, and Orders. A proposed ordinance shall be deemed introduced at the first meeting at which it is on the agenda and actually considered by the board and its introduction shall be recorded in the minutes.

Comment: G.S. 153A-45 provides that an ordinance may not be finally adopted at the meeting at which it is introduced except by unanimous vote. The definition of introduction therefore is im-

portant because it makes a difference in the number of votes required to adopt an ordinance. The rule assumes that a measure is introduced only when the board begins to consider the matter.

Rule 26. Adoption, Amendment, or Repeal of Ordinances.

To be adopted at the meeting where first introduced, an ordinance or any action with the effect of an ordinance, or any ordinance amending or repealing an existing ordinance (except the budget ordinance, a bond order, or other ordinance requiring a public hearing before adoption), must be approved by all members of the board of commissioners. If the proposed measure is approved by a majority of those voting but not by all members of the board, or if the measure is not voted on at the meeting where introduced, it shall be considered at the next regular meeting of the board. If the proposal receives a majority of the votes cast at the next meeting or at a meeting within 100 days of being introduced, it is adopted.

Adoption of Ordinances, Resolutions, Proclamations and Orders.

A motion shall be adopted by a majority of the votes cast for any and all resolutions, proclamations and orders. The vote shall express the sense of the board on a question or issue brought before it and shall serve as an official declaration of a particular state of fact or circumstance.

Comment: See G.S. 153A-45. See also G.S. 153A-46 for requirements for granting franchises.

Rule 27. Quorum. A majority of the board membership shall constitute a quorum. The number required for a quorum is not affected by vacancies. If a member has withdrawn from a meeting without being excused by majority vote of the remaining members present, he or she shall be counted as present for the purposes of determining whether a quorum is present. The board may compel the attendance of an absent member by ordering the sheriff to take the member into custody.

Comment: See G.S. 153A-43. Compelling the attendance of a member by ordering the sheriff to take the person into custody is an extraordinary remedy intended for use when a member obstinately refuses to attend meetings for the purpose of preventing action on a proposal. If the board contemplates using this power,

it should give the absent members notice that their attendance is required by the majority and may be compelled in this manner.

Rule 28. Public Hearings. Public hearings required by law or deemed advisable by the board shall be advertised per legal requirements and staff shall set forth the subject, date, place, and time of the hearing as well as any rules regarding the length of time allotted to each speaker and designating representatives to speak for large groups. At the appointed time, the chair shall call the hearing to order and preside over it. When the allotted time expires, or earlier, if no one wishes to speak who has not done so, the presiding officer shall entertain or make a motion to end the hearing or adjourn the public hearing to another board meeting, or vote on the item. The board shall thereafter resume the regular order of business.

Anyone wishing to speak during a public hearing must first provide his or her name and address to the clerk.

Comment: G.S. 153A-52 provides that public hearings may be held anywhere within the county and gives the board authority to adopt rules governing the hearings.

Rule 29. Quorum at Public Hearings. A quorum of the board shall be required at all public hearings required by law.

Comment: G.S. 153A-52 implies that a quorum of governing board 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. However, if the board decided to hold a public hearing not required by law to gather a consensus of public opinion on an issue, the hearing could be held at several different sites, with a few members at each site.

Rule 30. Minutes. Minutes shall be kept of all board meetings. Minutes will be presented to the board on the regular meeting agenda. Substantive changes, including changes in content, will be made in open session. Other changes may be provided to the clerk. The exact wording of each motion and the results of each vote shall be recorded in the minutes. On the request of any board member the board shall be polled by name on any vote.

Minutes of closed sessions will be presented to the board during a closed session held under G.S. 143-318.11(a)(1). Motion to go into closed session should state that one purpose of the session is “to prevent the disclosure of information that is made privileged or confidential by G.S. 143-318.10(e).”

Minutes and general accounts of closed sessions shall be considered sealed automatically. Closed session records shall be unsealed by board action if and when the closed session’s purpose would no longer be frustrated by making these records public.

Comment: See G.S. 143-318.10(d) and the discussion of minutes in Bonnie E. Davis, *Handbook for North Carolina County Commissioners, second edition, revised*, by Joseph S. Ferrell (Chapel Hill, N.C.: Institute of Government, 1985). G.S. 143-318.11(d) provides that minutes and other records made of a closed session may be withheld from public inspection as long as such inspection would frustrate the purpose of the closed session.

Rule 31. Appointments. The board shall make appointments to covered advisory boards and committees as provided in the Orange County Board of County Commissioners Advisory Board Policy and associated board-specific policies and as that Policy and associated policies may be amended from time to time.

Rule 32. 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. Adoption of these rules or an amendment thereof shall require an affirmative vote equal to a quorum.

Comment: Local boards may generally amend their rules of procedure whenever they choose, unless a statute or rule of the body that created the particular board provides otherwise. To ensure that any amendments adopted reflect the will of the board majority, a vote equal to a quorum is required to approve the amendment.

Rule 33. Reference to Robert’s Rules of Order. To the extent not provided for in, and not conflicting with the spirit of, these rules, the chair shall refer to *Robert’s Rules of Order* to resolve procedural questions.

Comment: *Robert's Rules of Order* was designed to govern a large legislative assembly, and many of its provisions may be inappropriate for small boards. Nevertheless, it is the best source of Parliamentary procedure; care should simply be taken to adjust *Robert's Rules of Order* to meet the needs of small governing boards.

Rule 34. The Clerk to the Board shall be the Sole County Officer Responsible for Presenting Documents to the Chair for Signature. The clerk shall review all such documents with the county manager and county attorney before they are presented to the chair for execution.

Rule 35. The Chair shall be the Spokesperson for the Board. The chair shall be the official spokesperson for the board. In the chair's absence, the vice-chair shall be spokesperson. In the absence of the chair and vice-chair, the most senior BOCC member will be the spokesperson. This follows the standard hierarchy of board leadership. The chair may designate a board representative to speak at events where a speaker has been requested to represent the BOCC.