

AN ORDINANCE REWRITING CHAPTER 2 OF THE TOWN CODE

THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO ORDAINS:

Section 1. Chapter 2 of the Carrboro Town Code, "Procedures of Governing Body", is revised as follows:

CHAPTER 2
PROCEDURES OF GOVERNING BODY

Article I
MEETINGS

Section 2-1 Regular Meetings

The Board shall hold a regular meeting on the first, second, third and fourth Tuesday of each month, unless that day is a legal holiday. The meeting shall be held at the Town Hall and shall begin at 7:30 p.m.

Section 2-2 Special Meetings

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

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

(c) Unless a special meeting is called by resolution of the Board, notice of the meeting shall be given to Board members as provided in this subsection. At least forty-eight hours before the meeting:

(1) Written notice shall be delivered personally to each Board member; or

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

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

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

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

(f) As provided in Section 2-3 of the Town Charter, at a special meeting, the Board may consider any subject or take any action that could be considered or taken at a regular meeting, unless some provision of general law specifically requires that a matter be considered or action taken only at a regular meeting.

Section 2-3 Emergency Meetings

- (a) An emergency meeting is a meeting of the Board called because of generally unexpected circumstances that require immediate consideration.
- (b) The mayor, the mayor pro-tempore, or any two members of the Board may at any time call an emergency meeting by signing a written statement stating the time and place of the meeting and the subjects to be considered. A special meeting may also be called by resolution of the Board.
- (c) Notice of the meeting shall be given to Board members in the same manner as notice of special meetings.
- (d) Emergency meetings may also be held when all Board members are present and consent thereto or when those not present have signed a written waiver of notice, provided that the notice to the media required by subsection (e) is given.
- (e) The town clerk shall give notice of an emergency meeting to each of the media who has requested it in accordance with the Open Meetings Law. This notice shall be given either by telephone or by the same method used to notify Board members and shall be given immediately after the notice has been given to those members.
- (f) Only business connected with the emergency may be transacted at an emergency meeting.

Section 2-4 Continued or Recessed Meetings

- (a) By majority vote the Board may continue or recess any regular, special or emergency meeting to any place and time specified in the motion to continue or recess the meeting.
- (b) No further notice need be given of any continued or recessed session of a meeting set in accordance with subsection (a).

Section 2-5 Organizational Meetings

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

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

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

Article II

GENERAL MEETING PROCEDURES

Section 2-8 Agenda

(a) Preparation. The manager shall prepare the agenda for meetings of the Board, in consultation with the mayor.

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

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

(d) Contents. The agenda shall include, for each item of business placed on it, such background information on the subject as the manager deems necessary to inform the Board. . Whenever possible, a copy of all proposed ordinances shall be attached to the agenda and distributed simultaneously.

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

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

Section 2-9 Order of Business

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

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

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

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

Section 2-10 Presiding Officer

(a) The mayor shall preside at meetings of the Board. A member must be recognized by the mayor in order to address the Board.

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

(1) To rule motions in or out of order, including the right to rule out of order any motion patently offered for obstructive or dilatory purposes;

(2) To determine whether a speaker has gone beyond reasonable standards of courtesy in his remarks and to entertain and rule upon objections from other members on this ground;

(3) To entertain and answer questions of parliamentary procedure, subject to being overruled by a two-thirds vote of the membership of the Board;

(4) To call a brief recess at any time;

(5) To adjourn in the event of an emergency.

Section 2-11 Quorum

A majority of the actual membership of the Board, excluding vacant seats, shall constitute a quorum. A quorum is necessary for the Board to take any official action. A member who has withdrawn from a meeting without being excused by majority vote of the remaining members present shall be counted as present for purposes of determining whether a quorum is present.

Section 2-12 Taking Official Action

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

(b) A motion may be withdrawn by the introducer at any time prior to a vote.

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

Section 2-13 Debate

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

(1) The member who makes the motion is entitled to speak first;

(2) A member who has not spoken on the issue shall be recognized before someone who has already spoken;

Section 2-14 Voting

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

(b) As provided in G.S. 160A-75, a Board member may be excused from voting on a particular issue by majority vote of the remaining members present if the matter at issue involves that member's own financial interest or official conduct. The following matters do not require a Board member to seek to be excused from a vote thereon:

(1) An interest in real property which must be disclosed pursuant to Section 2-33(a), provided the issue before the Board is one of policy that affects the real property disclosed no differently than all other property similarly situated;

(2) An interest in a business, firm, or corporation which is negligible from the point of view of the operation of the business, firm, or corporation; or

(3) The question of the compensation and allowances of the Board member for his or her service to the Town of Carrboro.

(c) As provided in G.S. 160A-381(d), a Board member shall not vote on any zoning map or text amendment where the outcome of the matter is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. As provided in G.S. 160A-388(e1), a Board member may not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. As

provided in G.S. 14-234, a Board member may not participate in or vote on any contract entered into by the town if such member would derive a direct benefit from the contract.

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

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

(f) When this chapter specifies that action shall be taken by majority vote or fails to specify the vote required, that shall be interpreted to mean a vote of the majority of those present and not excused from voting. When a two-thirds vote is required, that shall be interpreted to mean a vote of two-thirds of those present and not excused from voting. When a vote of a certain percentage of the Board membership is required, that shall be interpreted to mean the specified percentage of all seats on the Board, excluding vacant seats.

Section 2-15 Adoption of Ordinances

(a) An affirmative vote equal to a majority of the members of the Board not excused from voting on the issue (e.g., assuming no member is excused, four aldermen or three aldermen plus the mayor) shall be required to adopt an ordinance, take any action having the effect of an ordinance, or make, ratify, or authorize any contract on behalf of the town.

(b) Subject to the provisions of Chapter 159 of the General Statutes, and particularly G.S. 159-17, no ordinance or any action having the effect of any ordinance may be finally adopted on the date on which it is introduced except by an affirmative vote equal to or greater than two-thirds of the Board membership unless the Board has first held a public hearing on the ordinance. Therefore, assuming no vacant seats, unless the Board first holds a public hearing on an ordinance, that ordinance may not be adopted on the date it is introduced except by an affirmative vote of five aldermen or four aldermen plus the mayor. For purposes of this section, an ordinance shall be deemed to have been introduced on the date the subject matter is first voted on by the Board.

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

Section 2-16 Closed Sessions

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

Section 2-17 Public Hearings

(a) Public hearings before the Board required by law or ordinance (including, without limitation, the Carrboro Land Use Ordinance) or deemed advisable by the Board, shall be scheduled pursuant to a motion, adopted by a majority vote.

(b) As provided in G.S. 160A-81, the Board may adopt reasonable rules governing the conduct of public hearing, including but not limited to rules (i) fixing the maximum time allotted to each speaker, (ii) providing for the designation of spokespersons for groups of persons supporting or opposing the same positions, and (iii) providing for the maintenance of order and decorum in the conduct of the hearing.

(c) The Board may continue any public hearing without further advertisement. If a public hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular Board meeting without further advertisement.

Section 2-18 Minutes

As provided in G.S. 143-318.10, full and accurate minutes shall be kept of all meetings of the Board.

Section 2-19 and 2-20 Reserved 2-10

Article III

MOTIONS

Section 2-21 Substantive and Procedural Motions

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

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

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

Section 2-22 Motion to Amend

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

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

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

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

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

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

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

Section 2-24 Motions to Revive or Reconsider an Issue

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

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

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

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

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

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

Section 2-26 Motion to Terminate Debate

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

Section 2-27 Miscellaneous Motions

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

- (1) Divide a complex question and consider it by paragraph.
- (2) Suspend the rules. This motion shall require a two-thirds vote for adoption.
- (3) Take a recess.
- (4) Adjourn. This motion may not be amended.

(b) The provisions of this chapter shall not be interpreted to prohibit the making or adoption of motions not specifically enumerated or to prohibit the Board from acting by consensus.

Section 2-28 and 2-30 Reserved

Article IV

CODE OF ETHICS AND DISCLOSURE REQUIREMENTS

Section 2-31. Applicability

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

Section 2-32. Ethical Considerations

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

(b) Board members should seek to ensure that every citizen receives a fair and impartial hearing on any matter coming before the Board.

(c) The conduct of public business shall be free of any influence arising from gifts, favors or special privileges. Campaign contributions are not considered to be gifts, favors or special

privileges. It is the obligation of every Board member to refuse personal gifts, favors or special privileges in every instance where it reasonably would appear to an objective observer that such gift, favor or special privilege was designed to or would likely have a tendency to Board member, influence the official actions of such Board member. Board members should also be mindful of and avoid violations of the following statutes, which are set forth as Appendix A to this chapter:

- (1) G.S. 14-234, which prohibits Board members from benefitting from contracts with the town, except in very limited circumstances;
- (2) G.S. 133-32, which prohibits Board members from accepting most gifts or favors from contractors, subcontractors, or suppliers who have a contract with the town, have had such a contract within the prior year, or anticipate bidding on a future contract;

(d) No Board member may use confidential or advance information obtained by virtue of the Board member's office for personal or financial advantage, nor disclose such information to a third party for the financial or personal benefit of such third party.

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

(f) Attached to this chapter as Appendix B is a "Code of Ethics" adopted by resolution of the Board in compliance with G.S. 160A-86.

Section 2-33. Written Disclosure of Specified Financial Matters

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

(b) Every Board member shall disclose any legal, equitable, beneficial, or contractual interest he/she or his/her spouse or domestic partner may have in any business, firm, or corporation, of whatever nature, which is doing business with the Town pursuant to contracts which have been awarded by the Board.

(c) Every Board member shall disclose any legal, equitable, beneficial or contractual interest he/she or his/her spouse or domestic partner may have in any business, firm, or corporation, of whatever nature, which is attempting to secure the award of a bid from the Town

or the approval of any board of the Town. This includes an ownership or equity interest as well as an employment relationship.

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

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

(1) The later of 30 days after the effective date of this article or 30 days after the elected official has assumed office; or

(2) The earlier of 30 days after the acquisition of any legal, equitable, beneficial or contractual interest in any property or business, firm, or corporation required to be disclosed in subsections 2-33(a), (b) and (c) or prior to the award by the Board of a contract with or a permit or other approval to a business, firm, or corporation required to be disclosed in subsections 2-33(c) and 2-33(c). 2-15

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

Section 2-34. Other Disclosure Requirements

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

Section 2-35 through 2-40 Reserved

Article V

MISCELLANEOUS

Section 2-41 Appointments

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

(1) The mayor shall open the floor to nominations, whereupon the names of possible appointees shall be put forward by the members and debated. Upon the conclusion of the debate, the mayor shall propose each name in alphabetical order, and the members shall cast their votes.

(2) If only one appointee is to be selected, the voting shall continue until one nominee receives a majority of the votes cast, where-upon he or she shall be appointed.

3) If more than one appointee is to be selected, then each member shall have as many votes as there are slots to be filled. A member must cast all of his or her votes, and cast them for different nominees. The nominees receiving the highest number of votes shall be appointed.

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

Robert's Rules of Order shall govern all procedural matters not addressed by the provisions of this chapter, unless the Board agrees by majority vote or consensus to follow an alternative procedure. No action taken by the Board shall be invalidated by a failure to abide by Robert's Rules of Order.