

CHAPTER 33: TOWN COUNCIL; OFFICERS; EMPLOYEES

Section

General Provisions

- 33.01 Oaths and bonds of officers and employees
- 33.02 Qualifications for office
- 33.03 Appointments
- 33.04 Reference to Robert's Rules of Order

Meetings

- 33.15 Regular meetings
- 33.16 Special meetings
- 33.17 Emergency meetings
- 33.18 Continued or recessed meetings
- 33.19 Agenda
- 33.20 Order of business
- 33.21 Presiding officer
- 33.22 Quorum
- 33.23 Taking official action
- 33.24 Debate
- 33.25 Voting
- 33.26 Adoption of ordinances
- 33.27 Executive sessions
- 33.28 Public hearings
- 33.29 Minutes

Motions

- 33.40 Substantive and procedural motions
- 33.41 Motion to amend
- 33.42 Motions to dispose of issue without deciding merits
- 33.43 Revive or reconsider an issue
- 33.44 Reconsideration of matters disposed of on the merits
- 33.45 Motion to terminate debate
- 33.46 Miscellaneous motions

GENERAL PROVISIONS

§ 33.01 OATHS AND BONDS OF OFFICERS AND EMPLOYEES.

(A) All officers and employees appointed by the Council shall serve at the pleasure of the Council except as otherwise provided by law, and shall receive for their services compensation as may be established annually in the budget ordinance.

(B) The Council shall prescribe the required bond for each officer or employee that it deems necessary to be bonded, and no officer or employee may begin the duties of his or her office until the required bond has been obtained.

(C) All town officers shall take the following oath before beginning their duties:

"I, _____, do solemnly swear (affirm) that I will support and maintain the Constitution and laws of the United States and the Constitution and laws of North Carolina not inconsistent therewith and that I will faithfully discharge the duties of my office as _____, so help me God."

(D) This oath may be administered by the Mayor or by any other official authorized to administer oaths by G.S. § 11-7.1, and shall be subscribed and filed with the Town Clerk.

(1981 Code, § 3-43)

§ 33.02 QUALIFICATIONS FOR OFFICE.

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

(1981 Code, § 2-31)

§ 33.03 APPOINTMENTS.

The Council may use the following procedure to appoint individuals to various subordinate boards and offices:

(A) 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;

(B) If only 1 appointee is to be selected, the voting shall continue until 1 nominee receives a majority of the votes cast, whereupon he or she shall be appointed; and

(C) If more than 1 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.

(1981 Code, § 2-32)

§ 33.04 REFERENCE TO ROBERT'S RULES OF ORDER.

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

(1981 Code, § 2-33)

MEETINGS

§ 33.15 REGULAR MEETINGS.

The Council shall hold a regular meeting on the fourth Monday of each month, unless that day is a legal holiday, in which case the meeting shall be held on the next day. The meeting shall be held at Town Hall. Town Council shall review and determine meeting times at each December Council meeting following municipal elections.

(1981 Code, § 2-1) (Am. Ord. passed 5-27-2014; Am. Ord. passed 1-25-2016; Am. Ord. passed 3-26-2018)

§ 33.16 SPECIAL MEETINGS.

(A) A special meeting is any non-emergency meeting of the Council held at any time other than that specified in §3.15 above.

(B) The Mayor, Mayor Pro Tempore or any 2 members of the Council 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.

(C) Notice of the meeting shall be given to Council members as provided in this subsection, preferably 48 hours, but not less than 6 hours before the meeting:

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

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

(D) Special meetings may also be held when all Council 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 division (E) below is given.

(E) The Town Clerk shall give notice of a special meeting to the public and the media, at least 48 hours before the meeting, by:

(1) Posting a notice of the time and place of the meeting on the town's principal bulletin board;

(2) Mailing or delivering notice of the meeting to each of the media who has requested it in accordance with the Open Meetings Law; and

(3) Mailing or delivering notice of the meeting to any person who has filed with the Clerk a written request for it in accordance with the Open Meetings Law.

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

(1981 Code, § 2-2)

§ 33.17 EMERGENCY MEETINGS.

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

(B) The Mayor, the Mayor Pro Tempore or any 2 members of the Council may at any time call an emergency meeting by signing a written statement stating the time and place of the meeting and the subjects to be considered.

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

(D) Emergency meetings may also be held when all Council 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 division (E) below 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 Council 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.

(1981 Code, § 2-3)

§ 33.18 CONTINUED OR RECESSED MEETINGS.

(A) By majority vote the Council 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 division (A) above.

(1981 Code, § 2-4)

§ 33.19 AGENDA.

(A) *Preparation.* The Manager shall prepare the agenda for the meeting.

(B) *Requests to be placed on agenda.* A request to have any item of business placed on the agenda must be received by the Manager in sufficient time so that the agenda may be printed and distributed in accordance with division (E) below, and to this end the Manager may establish an appropriate deadline to receive the requests.

(C) *Requests to address Council.*

(1) Any individual or group that wishes to address the Council shall make a request to be on the agenda to the Manager.

(2) However, the Council shall determine at the meeting whether the individual or group will be heard by the Council.

(D) *Contents.*

(1) The agenda shall include, for each item of business placed on it, as much background information on the subject as is available and feasible to reproduce.

(2) Whenever possible a copy of all proposed ordinances shall be attached to the agenda and distributed simultaneously.

(E) *Inspection and distribution.*

(1) Copies of the agenda and attachments shall be available for public inspection as soon as they are completed.

(2) The Manager shall mail or deliver copies of the agenda and attachments to the Council members in sufficient time to ensure that they are received prior to the meeting.

(3) Additional copies of the agenda may be available for the press and interested members of the public.

(F) *Additions.*

(1) The Council may, by consensus or majority vote of the Council membership, add an item of business that is not on the agenda.

(2) Unless otherwise specified by the Council, additions to the agenda shall be taken up at the conclusion of all other regular business.

(1981 Code, § 2-6)

§ 33.20 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 division (D) below.

(B) Items shall be placed on the agenda according to the order of business established by the Council upon recommendation of the Manager.

(C) In establishing the order of business, the Council 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.

(1981 Code, § 2-7)

§ 33.21 PRESIDING OFFICER.

(A) The Mayor shall preside at meetings of the Council, except as provided in division (C) below. A member must be recognized by the Mayor in order to address the Council.

(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 or her remarks and to entertain and rule upon objections from other members on this ground;

(3) To entertain and answer questions of parliamentary law or procedure, subject to being overruled by a 2/3 vote of the membership of the Council;

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

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

(C) If the Mayor becomes actively engaged in debate on a particular proposal, he or she may delegate the duty to preside over the debate to the Mayor Pro Tempore or to any other member of the Council who is not so engaged and who acquiesces in the delegation.

(D) The temporary Chairperson may only preside over the debate and may not participate in it; however, he or she does not forfeit his or her right to vote on the issue by acting as temporary Chairperson. The Chairperson shall resume the duty to preside as soon as action upon the matter is concluded.

(1981 Code, § 2-8)

§ 33.22 QUORUM.

(A) A majority of the actual membership of the Council plus the Mayor, excluding vacant seats, shall constitute a quorum.

(B) A quorum is necessary for the Council to take any official action.

(C) 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.

(1981 Code, § 2-9)

§ 33.23 TAKING OFFICIAL ACTION.

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

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

(C) Subject to § 33.26 below and other provisions of law, official action of the Council shall be by majority vote.

(1981 Code, § 2-10)

§ 33.24 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:

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

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

(C) To the extent possible, the debate shall alternate between proponents and opponents of the measure.

(1981 Code, § 2-11)

§ 33.25 VOTING.

(A) Once a member is physically present at a Council meeting, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been excused from voting in accordance with division (B) below or has been allowed to withdraw from the meeting in accordance with division (C) below.

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

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

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

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

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

(G) When a 2/3 vote is required, that shall be interpreted to mean a vote of 2/3 of those present and not excused from voting.

(H) When a vote of a certain percentage of the Council membership is required, that shall be interpreted to mean the specified percentage of all seats on the Council, excluding vacant seats.

(1981 Code, § 2-12)

§ 33.26 ADOPTION OF ORDINANCES.

(A) An affirmative vote equal to a majority of all the members of the Council not excused from voting on the question in issue (including the Mayor's vote in case of an equal division) shall be required to adopt an ordinance or take any action having the effect of an ordinance.

(B) Subject to the provisions of G.S. Ch. 159 (Local Government Finance), no ordinance nor any action having the effect of any ordinance may be finally adopted on the date on which it is introduced except by an affirmative vote equal to or greater than 2/3 of the Council membership.

(C) When an ordinance requires a public hearing, the ordinance shall be considered introduced at the meeting when the Council sets a date for the public hearing.

(D) Franchise ordinances and amendments shall not be finally adopted until passed at 2 regular meetings of the Council.

(1981 Code, § 2-13)

§ 33.27 EXECUTIVE SESSIONS.

(A) The Council may hold executive sessions in accordance with the Open Meetings Law (G.S. Ch. 143, Art. 33C) and other provisions of law.

(B) The Council shall commence an executive session by a majority vote to do so and shall terminate an executive session in the same manner. Tape recordings and minutes shall be kept of all executive sessions.

(C) The tape recordings shall be retained for a period of 3 years, and the minutes shall be retained with the town's permanent records.

(D) The tape recordings and minutes shall be kept under lock and key; provided, the recordings or minutes may be made available for public inspection upon the majority vote of a quorum of the Town Council.

(1981 Code, § 2-14)

§ 33.28 PUBLIC HEARINGS.

(A) Public hearings required by law or deemed advisable by the Council shall be scheduled pursuant to a motion adopted by a majority vote setting forth the subject, date, place and time of the hearing as well as any rules regarding the length of time of each speaker and other matters regarding the conduct of the hearing.

(B) At the appointed time the Mayor shall call the hearing to order and then preside over it.

(C) Upon the expiration of the allotted time, or when there are no individuals who wish to speak who have not done so, the Mayor shall declare the hearing ended.

(D) A quorum of the Council shall be required at all public hearings required by state law.

(1981 Code, § 2-15)

§ 33.29 MINUTES.

Minutes shall be kept of all meetings of the Council.

(1981 Code, § 2-16)

MOTIONS

§ 33.40 SUBSTANTIVE AND PROCEDURAL MOTIONS.

(A) A ***SUBSTANTIVE MOTION*** is a motion that seeks to have the Council exercise any of its powers, duties or responsibilities.

(B) 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.

(C) A ***PROCEDURAL MOTION*** is a motion that relates either to the manner in which the Council conducts its business in general or the manner in which the Council deals with a particular substantive issue or substantive motion that is before it.

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

(1981 Code, § 2-21)

§ 33.41 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.

(1981 Code, § 2-22)

§ 33.42 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 by the Council a matter will again be placed on the agenda.

(B) *Motion to defer consideration indefinitely*. Adoption of this motion removes the issue from the Council's consideration until a time as a motion to revive consideration is adopted (see § 33.43(A) below) or a new motion dealing with the same issue is introduced and seconded (see § 33.44(A) below).

(C) *Motion to refer to a committee*. Unless this motion includes an instruction to report the matter back by a date certain, or unless a motion is adopted under § 33.43(B), a matter referred to a committee remains there until returned to the Council by the committee.

(1981 Code, § 2-23)

§ 33.43 REVIVE OR RECONSIDER AN ISSUE.

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

(B) *Motion to recall an issue from committee*. Adoption of this motion may bring a matter immediately before the Council, or the motion may direct a committee to report an issue back to the Council 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 Council as if the earlier vote had never taken place.

(1981 Code, § 2-24)

§ 33.44 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 division (B) below.

(B) *Motion to prevent reconsideration for six months*

(1) This motion is in order immediately following the defeat of a substantive motion and at no other time.

(2) It requires a 2/3 vote for adoption.

(3) A matter concerning which this motion has been adopted may be brought before the Council prior to the expiration of 6 months pursuant to a vote to suspend the rules.

(4) This motion does not bind a new Council.

(1981 Code, § 2-25)

§ 33.45 MOTION TO TERMINATE DEBATE.

(A) 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.

(B) This motion shall be in order at anytime, but unless each Council member present has had an opportunity to speak at least once on the issue, the motion requires a 2/3 vote for adoption.

(C) This motion is not debatable and may not be amended.

(1981 Code, § 2-26)

§ 33.46 MISCELLANEOUS MOTIONS.

In addition to others authorized by this chapter, the following motion shall be in order:

(A) Divide a complex question and consider it by paragraph;

(B) Suspend the rules. This motion shall require a 2/3 vote for adoption;

(C) Take a recess; and

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

(1981 Code, § 2-27)