



City of Asheville
Boards and Commissions
Manual
Draft 6.22.15

MESSAGE FROM THE MAYOR:

Members of boards and commissions provide an invaluable service to our City. Through the over 30 boards and commissions established by Asheville City Council, citizens can provide input on the policies that shape their government and their city. They advise the City Council on a wide variety of subjects by making recommendations on important policy matters. As services and programs provided by the City continue to grow, boards and commissions play an integral role in providing detailed studies and considered advice to City Council. Boards and Commissions are often catalysts for innovative programs and improved services.

Serving on a board or commission can be a rewarding experience for community service-minded residents. It is an excellent way to participate in the functioning of local government and to make a personal contribution to help shape the future of Asheville. Making local government effective and responsive is everybody's responsibility.

This Boards and Commissions Manual provides information about applying for and being a member of an Asheville Board or Commission. It explains in detail the roles and responsibilities of board members in relationship to Asheville City Council, city staff and the community. Please take advantage of the information provided to be successful as a member of an Asheville Board or Commission.

On behalf of the City Council, I wish to thank each board and commission for their service and extend an invitation to all residents of the City to give serious consideration to serving on a citizens' advisory body.

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- Appendix A: Templates
 - 1. Agenda
 - 2. Minutes
 - 3. By-Laws/Rules of Procedure
- Appendix B: Roberts Rules of Order
- Appendix C: State Statute: Meetings of Public Bodies
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Overview of Boards and Commission Manual

- The City of Asheville operates under a council-manager form of government, which is prescribed by its charter. Under the council-manager system, Asheville City Council provides leadership by establishing the city's policies. They are the leaders and policy makers elected to represent the community and to concentrate on policy issues that are responsive to citizens' needs.
- The City of Asheville has over 34 active, standing boards and commissions. Some are advisory in nature to the City Council, while others have distinct responsibilities that are established by law.
- The majority of boards and commissions in the City of Asheville are advisory boards. Advisory boards make recommendations to council. They do not have the authority to make decisions but rather they give advice only.
- Boards and Commissions must ensure all actions are aligned with goals and objectives and adopted plans and policies of the City of Asheville.
- As a member of a board, you represent the City of Asheville. Along with the opportunity to serve the City, comes the requirement that you abide by all of the applicable rules and laws that govern ethical behavior.
- The City Council may appoint a City Council person as liaison to a board or commission. The role of the council liaison shall be to serve as a direct communication link between the City Council and the board or commission, and not to play an active role in the deliberations of the board or commission.
- The city manager designates a City department to provide staff support for each board. The city manager appoints an executive level staff person to serve as the liaison to the board. The department director will appoint an administrative staff person to help the board prepare agendas, post meeting notices, maintain minutes and keep attendance records for board members.
- The board does not supervise or manage staff liaisons and may not direct staff to perform work on behalf of the board. Staff support do not work "for" or "at the direction of" the group they support. The board may make reasonable requests for information or resources they need by contacting the executive liaison.
- An individual commissioner may not represent the commission before the general public unless the City Council has authorized a commission to grant permission to do so to an individual commissioner.
- As a general rule, board and commission members shall vote on all matters before the board or commission unless excused from voting by a majority of the members due to conflict of interest

CITY OF ASHEVILLE VALUES: THE ASHEVILLE WAY

The ASHEVILLE way

Continuous Improvement

Asheville employees are trained professionals who improve service delivery by balancing needs, resources and innovation.

Integrity

Asheville employees demonstrate character with courage, honesty and pride.

Diversity

Asheville employees value and respect a diverse community, workforce and ideas.

Safety and Welfare

Asheville employees value the safety and welfare of our employees and the citizens we serve.

Excellent Service

Asheville employees strive to address needs with courtesy, compassion, timeliness, efficiency and commitment.

*Our Quality of Service,
Your Quality of Life*



OVERVIEW OF LOCAL GOVERNMENT STRUCTURE

Authority to Govern

Cities are creatures of the state – that is, the state authorizes a city to govern through its enabling legislation and dictates the reaches of a city's authority. North Carolina cities have been given power to govern over only the specific functions where authority has been granted to them by the state. More information on the authority of North Carolina cities can be found in the NC League of Municipalities online document *How NC Municipalities Work*. You can read the state statute on cities and towns in Chapter 160A of the North Carolina General Statutes, which can be found on the NC General Assembly website.

Council-Manager Form of Government

The City of Asheville operates under a council-manager form of government, which is prescribed by its charter. More than 3,400 cities and 371 counties operate under this system, which means more than 89 million American citizens live in communities with this form of government. Since its establishment, the council-manager form has become the most popular form of government in the United States in communities with populations of 5,000 citizens or more. Under the council-manager system, Asheville City Council provides leadership by establishing the city's policies. They are the leaders and policy makers elected to represent the community and to concentrate on policy issues that are responsive to citizens' needs.

Asheville City Council has the authority to:

- Determine policy in the fields of planning, traffic, law and order, public works, finance, and recreation;
- Appoint and remove the city manager;
- Adopt the budget, levy taxes, collect revenues, and make appropriations;
- Appoint and remove the city attorney and city clerk;
- Authorize the issuance of bonds by a bond ordinance;
- Appoint members of the city boards, commissions and committees;
- Inquire into the conduct of any office, department, or agency of the city and make investigations into municipal affairs;
- Provide for an independent audit; and
- Provide for the number, titles, qualifications, powers, duties, and compensation of all officers and employees of the city.

Asheville City Council appoints a city manager to achieve the desired end set by the City Council. The manager oversees day-to-day city operations and executes Council established laws and policies. The city manager also ensures the entire community is being served. If the manager is not responsive to the governing body's directions and guidance, the governing body has the authority to terminate the manager at any time. City Council also appoints the city attorney and the city clerk.

Some responsibilities of the city manager include:

- Work with elected officials as they develop policies. The manager may discuss problems and recommendations, propose new plans, or discuss issues that affect the community and its residents.
- Ensure that laws and policies approved by elected officials are equitably enforced throughout the city.
- Develop recommendations for new programs indicating scope, cost and impact for consideration by City Council.

- Seek feedback from residents and members of the business community to address and solve problems.
- Prepare the annual budget, submits it to elected officials for approval and implements it once approved.
- Supervise department heads, other employees and top appointees.
- Investigate citizen complaints and problems within the administrative organization and recommend changes to elected officials.
- Manage the day-to-day operations of the city.

Not all council-manager governments are structured the same way. In fact, one of the most attractive features is that the council-manager form is adaptable to local conditions and preferences. For example, Asheville City Council members are elected at large while other some city councils are elected by district or by a combination of an at-large and by-district structure.

Fund Accounting

The accounts of the City of Asheville are organized and operated on the basis of funds. A fund is a fiscal and accounting entity with a self-balancing set of accounts comprised of assets, liabilities, fund equity, revenues, and expenses as appropriate. Fund accounting segregates funds according to their intended purpose and is used to aid management in demonstrating compliance with finance-related legal and contractual provisions.

Funds included in the City of Asheville Adopted budget can be grouped into two types: governmental funds and proprietary funds. Governmental funds are those through which most functions of the City are financed. Proprietary funds are used to account for City activities that are similar to those often found in the private sector. Specific City of Asheville funds include:

General Fund

The General Fund is a governmental fund that encompasses most of the City's day-to-day operations, such as police, fire, refuse collection, street maintenance, and parks and recreation. General Fund operations are primarily funded through property tax dollars, but are also supported through sales tax revenue, charges for service, license & permit fees, and investment earnings.

Enterprise Funds

Enterprise Funds are proprietary funds used to account for activities that operate like private businesses, where expenses are primarily financed by revenues derived from user charges. For the City of Asheville, these funds include:

- Transit Services Fund
- Parking Services Fund
- Water Resources Fund
- US Cellular Center Fund
- Stormwater Fund
- Street Cut Utility Fund

Capital Funds

Capital Funds are used to account for capital replacements and improvements. Funding is provided from operations, federal or state grants, or long-term financing and may be annual appropriations or project appropriations. Appropriations are approved through the Capital Improvement Plan process. Capital Funds include:

- General Capital Projects Fund
- Community Development Fund
- Water Major Capital Improvement Fund
- HOME Fund
- US Cellular Center Capital Fund
- Parking Services Capital Fund
- Transit Services Capital Fund

How Funds Interact

City funds interact in a variety of ways. Expenses that occur in one fund are frequently incurred to benefit another fund. When this occurs, the benefiting fund may reimburse the fund providing the goods and services. Examples of such transactions include general government services provided by the General Fund to the Water Resources Fund. Interfund transfers may also result from the exchange of resources between funds to cover operating and capital expenses. For example, the FY 2014-15 budget includes a transfer from the General Fund to the Civic Center Fund to support operations. Transfers between funds result in the budgeting of dollars in both participating funds.

Departments & Divisions

Departments are organizational units that provide a major type of public service, such as fire or police protection. Departments are usually subdivided into one or more divisions. For instance, the police department consists of three divisions: administration, criminal investigations, and patrol. Often within each division there are smaller units responsible for performing specific activities. For example, within the police patrol division is the K-9 patrol team and the anti-crime team.

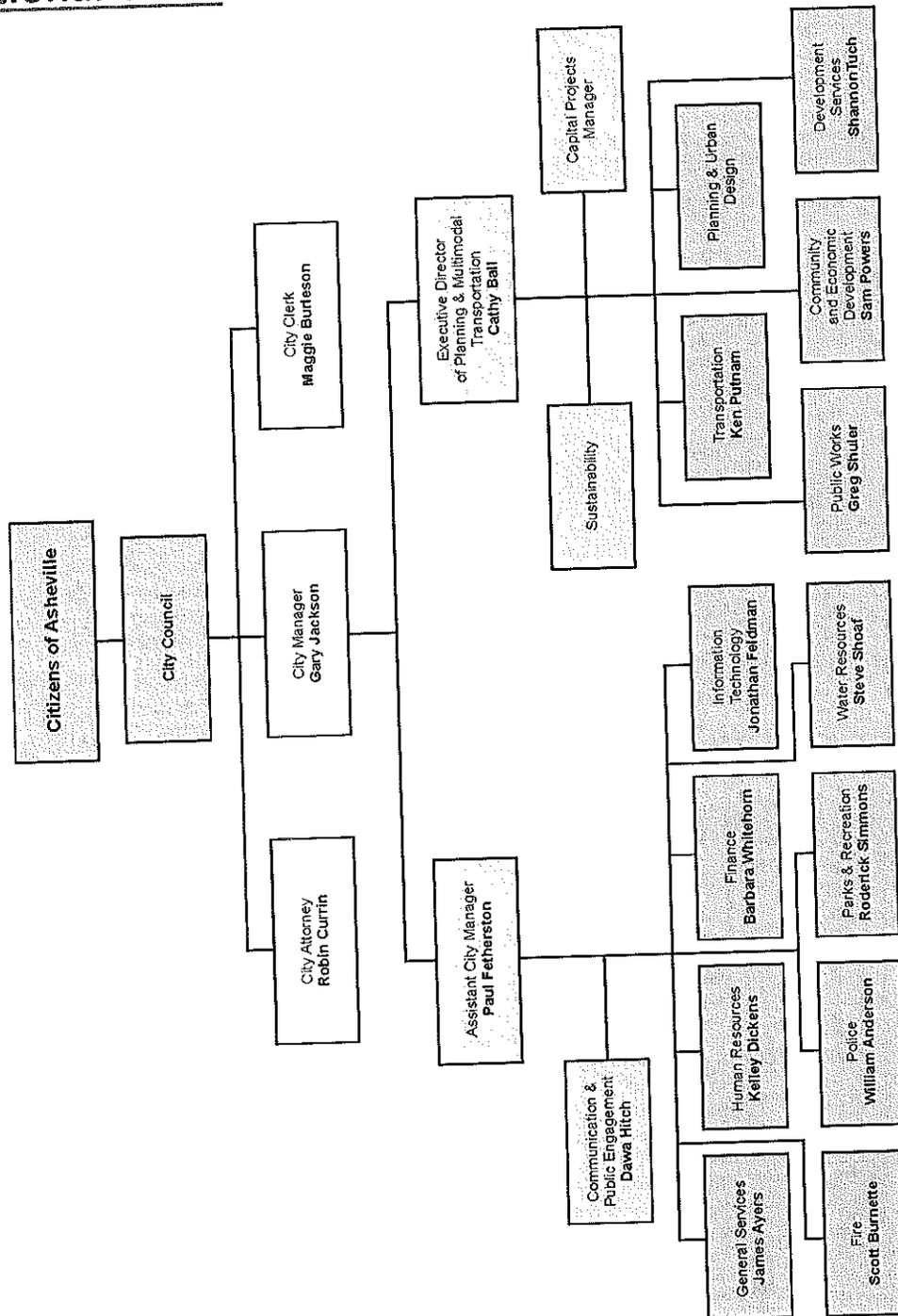
Citizen Participation

Successful examples of citizen participation in the local government decision-making process are widespread among professionally managed communities. Because professional local government management offers government of the people, by the people and for the people, it sets the stage for citizen activism by encouraging open communication between citizens and their government. Because political power is concentrated in the entire governing body rather than one elected official, more citizens have an opportunity to be elected to a position in which they have significant influence over the future of their community.

The city of Asheville values and encourages citizen participation and feedback. The City appoints over 250 members to 34 advisory and/or quasi-judicial bodies. The City regularly holds public hearings and community meetings to gather community input.

Organizational Chart

City of Asheville - Organizational Chart



Overview of City of Asheville Boards and Commissions

Why have boards and commissions?

The City of Asheville operates under a council-manager form of government, which is prescribed by its charter. The City of Asheville has over 34 active, standing boards and commissions. Some are advisory in nature to the City Council, while others have distinct responsibilities that are established by law. Boards and commissions help council set priorities by balancing public interest and providing informed recommendations to council that can influence policy in many ways. As a member of a board or commission you are considered to be a City official; therefore, it is important to gain a full understanding of your roles and responsibilities.

Types of boards and commissions:

Commission activities are varied but generally fall into five categories. Any particular commission may belong to one or more of the types listed below and all boards and commissions act on an advisory level.

The City of Asheville has several different types of boards and commissions.

- 1) Autonomous Boards – These boards are structured under general laws or local acts of the state. They are self governing and function independently of any outside control. They report to the City Council and adhere to policies of the City Council that directly affect board responsibilities.

- Air Quality Agency
- Alcoholic Beverage Control Board
- Asheville City Board of Education
- Asheville Regional Airport Authority
- Asheville-Buncombe Community Relations Council
- Board of Electrical Examiners
- Housing Authority of the City of Asheville
- HUB Community Economic Development Alliance
- Metropolitan Sewerage District Board of Directors
- Tourism Development Authority
- Police and Firefighter Disability Review Board

- 2) Quasi – judicial Boards – These boards make findings of fact and conclusions of law in handling appeals that affect provision of the City Code. They are quasi-judicial in that the hearings must comply with due process requirements and the decisions are subject to review in Superior Court. They may also have an advisory role.

- Board of Adjustment
- Civil Service Board
- Historic Resources Commission
- Noise Ordinance Appeals Board

- 3) Administrative Boards – These boards carry out administrative functions and administer funds for fulfilling the objectives of the organization.

- Firemen's Relief Fund, Board of Trustees
- Crimestoppers, Asheville-Buncombe

4) Decision Making and Advisory – These boards can sometimes make a final decision and sometimes just make recommendations. Unlike pure advisory boards, their review is required in the decision making process.

- Planning and Zoning Commission

5) Advisory Boards – These boards develop short and long term goals and make recommendations to the City Council. In their advisory capacity, the boards act as important sources of citizen information on a variety of activities that affect the city and residents.

- Affordable Housing Advisory Committee
- African American Heritage Commission
- Asheville Area Riverfront Redevelopment Commission
- Citizens Police Advisory Committee
- Civic Center Commission
- Downtown Commission
- Homeless Initiative Advisory Committee
- Americans with Disabilities Act Compliance
- Multimodal Transportation Commission
- Neighborhood Advisory Committee
- Public Art and Cultural Commission
- Recreation Board
- Sustainable Advisory Committee
- Technical Review Committee
- Tree Commission
- Noise Ordinance Appeals Board

The majority of boards and commissions in the City of Asheville are advisory boards. Advisory boards make recommendations to council. They do not have the authority to make decisions but rather they give advice only. Advisory boards are tasked with taking on the issues and concerns of citizens, understanding and exploring possible options and providing feedback and recommendations to council.

How do boards and commissions operate?

1) Each board receives its charge from the North Carolina General Statutes or from a City ordinance or resolution establishing the board.

2) Each board must adopt Rules and Procedures including but not limited to the following:

- Purpose
- Meeting schedules and guidelines for posting meetings
- Membership composition and the election of officers
- Outline of the duties of each officer

An example of the Rules and Procedures is provided in the Appendix A: Templates

3) The City Council may, from time to time, ask a board to consider specific items not in conflict with existing laws.

4) The chairman, working with the staff liaison, shall post copies of their minutes on the City's website.

5) The City Council may appoint a City Council person as liaison to a board or commission and that member is entitled to receive all agendas, minutes, and other correspondence and be eligible to attend all meetings of the board including closed sessions. The role of the liaison shall be to serve as a direct communication link between the City Council and the board or commission, and not to play an active role in the

deliberations of the board or commission. The liaison shall notify the board or commission of long-range issues and projects under consideration by the Council which would be of interest to that board or commission and shall likewise advise the Council of such matters under consideration by the board or commission.

6) Each board shall provide an annual report to the City Council outlining their activities for the past year. The report shall be posted on the City's website by January 30 for the previous calendar year.

7) An orientation session will be conducted for all new appointees by the City staff liaison.

8) From time to time, additional training sessions for board members may be provided through City staff, the Institute of Government and other training groups and organizations. The City Council encourages members to take advantage of these opportunities.

9) No board or commission member who is not present at a meeting shall be allowed to vote by proxy.

10) The board will comply with open meeting laws, including notice of meetings.

11) The board is to provide the City Clerk with their schedule of regular meetings with the predetermined time and place. The schedule will be revised only in accordance with legal requirements for notice. Any deviation from a regularly scheduled or special meeting must be reported to the City Clerk.

12) In order to conduct official business at a regular or special meeting, a quorum of the board must be present. In the absence of a rule, by-law, or statute providing otherwise, a quorum is more than half of the members of the board, not counting vacant seats. If a quorum is not present at any meeting, the chairperson will postpone the meeting until such time as a quorum can be present, provided adequate notice is given pursuant to the open meetings law.

PLANNING AND BUDGETING

Planning:

The City of Asheville has transformed dramatically over the years. Asheville's position as a regional hub has brought challenges and opportunities as city leaders seek to accommodate demands for economic development, city services, improved infrastructure, and public facilities to support a growing and diverse regional population. Meeting these challenges requires planning, prioritizing, collaboration and innovative solutions. This commitment requires a comprehensive planning process that aligns our financial system to short, medium and long range plans so that citizens continue to receive high quality city services. It also requires committed community engagement and dedication from members of the city boards and commission.

Comprehensive planning is an inclusive approach of addressing future growth. It focuses simultaneously on the present and the future. The comprehensive planning process helps to tie the efforts of the city, the council, departments, and employees into a unified inventory of plans designed to accomplish the specific purpose of supporting the city's overall mission.

The city council reviews and/or revises their priorities each year at the annual strategic planning retreat held each year in January or February. These priorities are always aligned with the city's overall mission. The City Council Strategic Operating Plan 2014-15 can be found here, <http://www.ashevillenc.gov/Portals/0/city-documents/communityrelations/Asheville-Strategic-Plan2014-print.pdf>

The City of Asheville's comprehensive plan, the City 2025 Plan, was adopted in 2002 after an extensive public input process. The 2025 Plan proposes a land use pattern, transportation network and system of city services and infrastructure that reflects the community's goals for growth as they were identified and documented throughout 2001-2002. The 2025 plan was designed to be implemented by more specific plans and action items considered by City Council, city staff, or other boards and commissions over time. It is intended to be implemented over time and updated to fit our needs as we change. The city of Asheville's current portfolio of active strategic master plans includes 16 different plans focusing on areas including development and land use, river redevelopment, affordable housing, transportation, parks, sustainability, and homelessness, among others.

Each department develops 2 year work plans, identifying through its mission and goals how it contributes to the overall mission of the City of Asheville.

Through the process of comprehensive planning, every level is striving to achieve the mission of delivering an excellent quality of service to enhance quality of life in Asheville. Results achieved at any level in a department contribute to the achievements at the next highest level. Each level builds on each other to reach the council priorities and the City's mission.

Budgeting:

The City of Asheville adopts its annual operating budget in accordance with North Carolina General Statutes (N.C.G.S. 159 – Local Government Budget and Fiscal Control Act). These statutes require that City Council adopt a balanced budget in which estimated revenues and appropriated fund balances equal expenditures. The City Manager must submit a balanced budget proposal to the City Council by June 1 of each year, and City Council must adopt the Budget Ordinance by July 1. A formal public hearing is

required to obtain taxpayer comment before City Council adopts the budget. By state law, the fiscal year begins on July 1 and ends on June 30.

In order to meet these requirements the city must have a dynamic and comprehensive budgeting process. Budget preparation affords departments the opportunity to reassess their goals and objectives and the strategies for accomplishing them. Even though the budget may be heard by City Council in May and adopted in June, its preparation begins at least six months prior. The process begins with the Budget Office preparing revenue and expenditure projections. These projections serve as the framework for financial decision making during the City's annual strategic planning and budgeting process. Departments begin developing their budget requests in January. During this phase, departments are encouraged to thoroughly review all programs and services assessing their "value" and priority to the citizens of Asheville.

Linking important objectives with necessary resources requires a process that identifies key goals at the very beginning of budget preparation. The annual strategic planning process begins with the City Council Retreat in late January, at which time Council identifies its goals and priorities for the upcoming fiscal year. The Council's directives set the tone for the development of the annual budget.

City staff's careful fiscal management and ongoing efforts to reengineer in order to provide the highest level of service for the lowest cost is allowing management to entertain strategic goals beyond the maintenance of core services. Each year, City staff has plans, prioritizes and collaborates to ensure that the budget for each fiscal year is sustainable.

Board and commission members participate in this process by monitoring organizational performance related to the work of their board, participating in public hearings and reporting board and commission priorities to council.

BECOMING A MEMBER

Purpose of Citizen Participation

The City of Asheville provides for continuous citizen input and advice through a wide variety of boards and commissions. Some of these are advisory in nature to the City Council, while others have distinct responsibilities that are established by law. The City Council encourages citizens to participate in their City government by volunteering to serve on these boards and commissions.

Application for Appointment

- 1) A description of all City boards is contained in "The Talent Scout". This document is available in the City Clerk's Office and is distributed widely in the community and on the City's webpage. A brief application form stating the citizen's interest in serving on a board is a part of "The Talent Scout" and must be submitted to the City Clerk.
- 2) An application and/or resume is required for consideration of an appointment to a City board.
- 3) In most cases, the City Council will require an interview process prior to appointment.
- 4) All appointments are made in an open session of the City Council. Discussion and consideration of appointments and interviews are also held in open session.
- 5) Once an application for an appointment has been filed with the City Clerk, it is placed on a resource list and remains active for a one-year period. At the end of that period of time, you will be contacted by the City Clerk's Office to see if you wish to seek other opportunities to support your participation on our boards.
- 6) Applicants are strongly urged to attend several meetings of a board prior to applying and/or appointment to a board.

Qualifications

- 1) Appointees to boards and commissions shall be residents of the City of Asheville, unless otherwise specified or provided for by law, ordinance, or Council action establishing said board or commission, or in the rules or by laws of said board or commission, if approved by Council.
- 2) In matters where an intergovernmental board has independent governing authority (by law, by agreement, or other enabling authority), and where not prohibited by law, at least one of the City's appointees shall be a current member of the City Council. Such an appointment allows Council to be a part of deliberation and decision-making on matters of regional importance that impact the City of Asheville.
- 3) No citizen shall be eligible to hold concurrently more than two Mayoral or City Council appointments to standing boards or commissions; this limitation shall not apply to ad hoc committees appointed by the Council.
- 4) Efforts are made to represent the diversity that we have in our community on all boards, and criteria for appointments may be established to achieve appropriate diversity, except that preference shall be given to appointment of residents of a specific area of town for which an ad hoc or advisory committee may be appointed.

5) An oath of office (or affirmation) is required for some boards and commissions. Where applicable, newly appointed board members will take and sign an oath of office or affirmation following their appointment.

If a board member enters on the duties of his or her office before taking, subscribing and filing the oath of office, he or she may be removed from office.

Terms

1) The term of service on most City boards are three years, unless otherwise provided by law.

2) The length of service on all boards and commissions shall be limited to two full successive terms (plus any unexpired term to which a member is appointed).

3) A member shall serve until the expiration of their term or until such time as a successor is appointed, whichever occurs later, unless otherwise provided by law.

4) The City Council Boards & Commissions Committee may request that a member in good standing be allowed to serve out their term should they become a non-city resident.

5) Reappointment to a second term is not automatic and will be based on circumstances to be determined by the City Council in each individual case.

RESPONSIBILITIES FOR BOARD MEMBERS

Attendance

1) Appointees to boards and commissions are expected to attend all meetings possible.

2) Any appointee who fails to attend at least 75% of the regularly scheduled meetings of a board or commission within a twelve (12) month period, may be removed.

3) The board chairman or staff liaison shall be responsible for reporting on attendance to the City Clerk upon request.

4) Attendance provisions are not imposed upon Council liaison members but are in effect for Councilmen serving as appointed regular members on a board or commission.

Committee on Boards and Commissions

1) The Mayor may appoint a committee of City Council, with the Vice-Chair as Chairman, to evaluate the ongoing need for each board and recommend to the City Council elimination of any for which there is no longer a need. This committee may also consider other items in regard to board structure, appointments or other items at the request of the Mayor and/or the City Council.

Conflict of Interest

1) No member of a board shall participate in the discussion or vote on any item involving their own official conduct or financial interest.

2) It is the responsibility of an individual board member to bring to the attention of the entire board any item for which there may be a conflict of interest.

3) It is up to the entire board to decide if a conflict exists and vote to excuse a member from considering a particular item.

4) Staff and legal assistance is available to all boards and commissions to help the board with decisions in this area.

Resignations and Replacements

1) Any member of a board or commission who desires to resign shall do so in writing to the City Clerk.

2) Unless otherwise provided by law, ordinance or resolution, all appointment by the City Council to a board or commission serve at the pleasure of Council, and may be removed from a board or commission at the discretion of Council.

3) For those boards and commissions whose members may be removed for cause, cause shall include, without limitation, the following: conflict of interest, failure to attend meetings.

Ad Hoc Committees

1) The City Council may appoint ad hoc committees to make recommendations regarding particular matters of interest within the City.

2) The foregoing rules on boards and commissions shall apply to ad hoc committees except where alternate provisions are made by the Council.

Incident Weather

1) If the Asheville City Schools are cancelled, then any board/commission meeting scheduled for that day will be cancelled.

2) The chairman of the board/commission will have the discretion of cancelling a meeting in the event of safety concerns when the Asheville City Schools have delayed starts.

3) In the event of inclement weather, the Chairs of the respective City Council Committees (Housing & Community Development Committee; Planning & Economic Development Committee; Public Safety Committee; Finance Committee; and Boards & Commissions Committee) will have the discretion whether or not the meeting is held that day.

ROLE OF THE BOARD AND BOARD MEMBERS

Roles and Responsibilities the Board, Board Members and Asheville City Staff Support

As a member of a board, you represent the City of Asheville. Along with the opportunity to serve the City, comes the requirement that you abide by all of the applicable rules and laws that govern ethical behavior. Briefly this means you need to be aware of and avoid conflicts of interest. You may not solicit or accept gifts and you may not use City facilities, personnel, equipment, or supplies for private purposes. More detailed information on the City's Code of Ethics, Standard Code of Conduct and Conflict of Interest is provided in other sections of this workbook.

Role of the Chair:

The chairperson, or in her/his absence, the vice chairperson, performs the following duties:

- Presides at all meetings of the commission and ensures that the work of the commission is accomplished. To this end the chairperson must exert sufficient control of the meeting to eliminate irrelevant, repetitious or otherwise unproductive discussion. At the same time the chairperson must ensure that all viewpoints are heard and are considered in a fair and impartial manner. The Chair cannot make rules related to the conduct of meetings or commission procedure without approval of the full commission.
- Appoints commission members to temporary subcommittees and informal bodies subject to the approval of the full commission.
- Approves the agenda prior to distribution. This is limited to the structure and order of the agenda and does not grant the Chair the authority to remove items submitted by commissioners or staff.
- Signs correspondence on behalf of the commission.
- Represents the commission before the City Council with the formal approval of the commission by motion and vote.
- Approves commission reports to Council.
- The Chair or a quorum of the commission may call a special meeting. The Chair may also cancel a regular meeting.
- Performs other duties necessary or customary to the office.

Role of the Staff Support:

The city manager designates a City department to provide staff support for each board. The city manager appoints an executive level staff person to serve as the liaison to the board. The executive liaison ensures the board complies with deadlines and code provisions, monitors the conflict of interest declarations to ensure the rules are followed and helps the chair keep the board functioning within their mission statement. The department director will appoint an administrative staff person to help the board prepare agendas, post meeting notices, maintain minutes and keep attendance records for board members. Staff liaisons and staff support are City of Asheville employees with significant staff responsibilities that relate to the same work area as the advisory board to which they have been assigned. They do not work "for" or "at the direction of" the group they support. The board does not supervise or manage staff liaisons and may not direct staff to perform work on behalf of the board. The board may make reasonable requests for information or resources they need by contacting the executive liaison.

Staff Liaison's responsibilities include:

- Development of meeting agenda and information packets with Chair of the board or commission.
- Facilitate, not participate
- Act as a resource on city policies, procedures and information

- Manage function of writing and posting action minutes from board and commission meetings with staff support designee
- Ensure that federal and North Carolina laws as well as city policies pertaining to the advisory board are met.

What makes an effective board or commission?

There are a few things you can do to make sure that your board or commission is strong and effective and that it has successful meetings. A successful meeting involves effective communication between individuals or groups. Good meeting planning and good facilitation skills are needed. Here are a few pointers to conducting a successful meeting.

- Keep the meeting under control. The board chair and board members are responsible for making sure the meeting is conducted in an orderly manner. To do this, follow a set meeting procedure and explain the procedure to those present at the beginning of the meeting.
- Act promptly. Follow the published agenda and make decisions in a timely manner to ensure due process.
- Stay focused. Do not get bogged down in details or constant requests for more information. Bring issues to a consensus.
- Determine if the issues were clearly defined and fully addressed. Make sure you have enough information to reach a decision. You can do this by keeping an open mind, hearing all the testimony or information before discussing the pros and cons of an item, remaining focused on the facts, listening carefully before making or announcing a decision and avoid making the discussion personal.
- Ensure the board's action is aligned with goals and objectives and adopted plans and policies of the City of Asheville.
- Do your homework. Read and review your agenda and spend as much time as necessary to become thoroughly familiar with each matter. If you need more information, ask the staff. If you need to make a site visit for a better understanding – Go. The key is to know the facts so you can make an informed decision.
- Think about whether you have a conflict of interest with any item on the agenda. If so, recuse yourself. If you are unsure, consult with city staff or the city legal department.
- Be professional. Do not mingle with friends, acquaintances, applicants or objectors in the audience before the meeting or during a recess as this can create the impression of bias, dishonesty or conflict.
- Be polite and impartial. Assist those who are not familiar with the protocol.
- Be attentive to those who are presenting their point of view. This is an important issue to them and their voice must be heard.
- Follow the bylaws, policies and procedures for your board or commission and above all, be on time. Arrange your schedule to be at the meeting on time. This will ensure that a quorum is present and the business of the meeting can proceed. As soon as a quorum is in the room, the meeting should be called to order.
- Follow the rules in the City Code and in the board's bylaws. The rules provide that each person and board member attending a meeting should observe decorum.

There are many ways you can have a successful board or commission. These are just a few. Think about your actions, how you present yourself and how you represent the city. These things make an impression on your board or commission and its effectiveness.

You have been appointed to help the council make good decisions for the citizens of Asheville. As a public official, there are certain responsibilities you must undertake and rules you need to know and abide by. This

module has covered the essential aspects of being a member of a board or commission and will help you be an effective member.

Internal Review Process

To ensure that boards and commissions are functioning efficiently and effectively, a review process is in place. The steps for this process are outlined below:

- Prior to January 30 of each year, the chair should prepare a report listing the mission statement, a description of actions taken to support the mission during the previous year and the goals for the upcoming year. While staff can assist in this process, it is the work of the board or commission chair to provide the final draft of the report for review.
- The report should be approved by the board and submitted to the city clerk (by January 30th annually) who will collate the reports and provide to the city council.
- City Council will review these reports. If there are problems, council will take appropriate action.

Relations with Other Commissions, Outside Agencies and the General Public

Other Commissions

There are enormous benefits when commissions work together on projects or research. Besides the advantages of time and energy savings, commission work can reflect a more accurate blend of community sentiment when efforts are made to coordinate in order to deal with overlapping subject matter. When one commission recommends an action to the Mayor and Council relating to a sphere of interest of another commission, the other involved commissions are notified and given an opportunity to comment before any reports are forwarded to Council. Referrals for information or review of proposals from one commission to another are transmitted through the respective secretaries of each commission.

In order to develop a useful liaison between commissions, each commission should determine which other bodies regularly deal with overlapping subject matter. Commissions which regularly overlap on each other's activities should request agenda, minutes and relevant reports from each other. Commissions which do not ordinarily relate need not routinely communicate with each other, but where an issue arises which is of concern to both, the two commissions should review the issue with each other before submitting a report to Council.

Outside Agencies

Unless specifically authorized by the Council, commissions may not represent policy to outside agencies either on their own behalf or on behalf of the City. Commissions function in an advisory capacity and in the absence of an explicit delegation of the role to act on the City's behalf by the Council on a particular issue, they may not directly communicate with outside agencies. If a commission wishes to support or object to a particular policy or program it should frame its action as a motion and a recommendation to the City Council on whose behalf the letter will actually be sent. Action by Council on such a commission request would be in the form of a letter. However, should a resolution be requested of Council, such resolution would be attached to the Council report (in the proper format), ready for Council action. If a request for an official policy statement is received from an outside jurisdiction, the commission should analyze and study the request. It could then make a recommendation to the Council for a response. All communications from outside agencies are transmitted through the staff secretary.

Furthermore, commissions may not take any action such as endorsing grant applications, receiving donations and gifts, sponsoring community events, or approving use of City property, facilities or other resources, which commits or indicates an intention to commit the City without authorization by the Council and coordination with the City Manager.

The commission may not act as a sponsor of or participate in (such as having an information booth) community events without the authorization of the City Council. This prohibition includes the use of the City logo or seal in conjunction with community events. Use of the City logo is restricted to communications generated from a City department. The logo may not be used for other purposes. The City of Asheville does not provide business cards for members of appointed boards and commissions. Commissions cannot have a joint meeting or joint event with an outside agency (public or private) for the purpose of conducting commission business. If a dialog with the outside agency is desired, the commission may invite the entity to make a presentation and field questions at a regular commission meeting.

General Public

The purpose of commission meetings is to permit open discussion on specific topics in a setting that is more informal than a Council meeting, to hear public expression on issues and to inform the public of what the commission is doing. Commissioners have the obligation to consider the welfare of the entire City, to be fair, objective and courteous, and to afford due process to all who come before them.

Public opinion must be sought but no commissioner should permit his/her judgment to become subservient to the criticism of those citizens attending the meetings. In order to conduct its business, the commission has the authority to limit discussion and public participation on any subject

All communications from the commission to members of the public are transmitted through the commission secretary or designee. Similarly, arriving communications are received and relayed to the commission through the agenda packet. The designee is responsible for including all communications received in the agenda packet according to publication deadlines. Official responses to citizen inquiries must be approved by the full commission and sent via the secretary. The roster of commission members is a public document available in the Office of the City Clerk. The roster includes the name, residential or mailing address and either a home or business phone number of each commissioner. Commissioners may interact with the public; however, if commissioners are contacted by the public outside a meeting, commissioners should encourage citizens to send their comments to the designee for distribution to all commissioners or come to a meeting and speak at public comment. This will allow the full commission to hear and consider all pertinent information and points of view.

Individual Commissioners

An individual commissioner may not represent the commission before the general public unless the City Council has authorized a commission to grant permission to do so to an individual commissioner (A commission may authorize one of its members to appear before another City commission without Council approval). When an individual commissioner is appearing in a private capacity before other commissions, outside agencies, the media, or the general public, the commissioner must clearly indicate that she/he is speaking as a private individual, not as an official representative. Official City stationery may be used only for official commission correspondence such as memos authored by the secretary or a commission-approved letter to the City Council.

Each commissioner also has the obligation to work cooperatively with other commissioners. Commissioners should exercise self-discipline and strive always to be objective, fair and courteous with each other as well as with staff and the public. A healthy respect for the time of other commissioners, staff and the public is of critical importance.

Press and Other Media

For notices of meetings and agendas the city clerk should routinely send these items to the media. Copies should also be sent to the City Manager's Office. The designee shall post the agendas and approved minutes on the web and send the approved minutes to the City Clerk for indexing into Records Online.

ETHICS FOR BOARDS AND COMMISSIONS

Conflict of Interest

Board members shall follow conflict of interest rules as listed in the board bylaws or rules of procedure. If the bylaws are silent on this subject, the following rules shall apply:

- 1) No member of a board shall participate in the discussion or vote on any item involving their own official conduct or financial interest.
- 2) It is the responsibility of an individual board member to bring to the attention of the entire board any item for which there may be a conflict of interest.
- 3) It is up to the entire board to decide if a conflict exists and vote to excuse a member from considering a particular item.
- 4) Staff and legal assistance is available to all boards and commissions to help the board with decisions in this area.

"Conflict of Interest" under City/Commission Rules

N.C.G.S. 160A-381(d): under this statute, conflict means a **"direct, substantial, readily identifiable financial impact"**

In cases where a project or application is before the Commission for recommendation and a Commission member **has an interest in the matter within the meaning of N.C.G.S. 160A-381(d), the member shall be excused from the Commission for that item, shall remove him or herself from the Commission dais or table, and may not participate as a Commission member in the deliberation or vote on that item.** The excused member may participate in the presentation of the item in his or her capacity as applicant or applicant's representative, or as a member of the public.

"Conflict of Interest" under State Law

State law defines an interest as a conflict if:

- It relates to members own **financial interest** or **official conduct** (NCGS160A-75 [City Council Voting])
- it creates a **direct, substantial and readily identifiable financial impact** on member (NCGS 160A-381(d)) [City Council Voting on Zoning Matters]
- If quasi-judicial decision, state law defines an interest as a conflict if:
 - **member has a fixed opinion** prior to hearing the matter that is **not susceptible to change**
 - member has **undisclosed ex parte communications**
 - member has a **close familial, business, or other associational relationship** with an affected person, OR
 - member has a **financial interest** in the outcome of the matter (NCGS 160A-388(e)(2) [Board of Adjustment Voting])

A member shall not use or disclose non-public information gained in the course of, or by reason of, the member's official responsibilities in a way that would affect a personal financial interest of the member or any other person.

Voting and Recusal

As a general rule, board and commission members shall vote on all matters before the board or commission unless excused from voting by a majority of the members due to conflict of interest

No Commission member shall take part in the consideration or determination of any matter or proposal in which he/she is **personally or financially involved or which creates any other form of conflict of interest**. Such members of the Commission shall be excused from voting due to the conflict of interest by a majority of Commission members present. After being excused from voting, said Commission member may participate in the hearing or presentation of any matter or proposal from which he/she has been excused from voting as a Commission member.

Considerations When "Conflict" is Not Clear

- **Duty to vote**-In general, board member or commissioner should vote unless clearly prohibited by conflict
- **Disclosure**-Let other members decide if rises to level of conflict
- **Is board member/commissioner able to make a fair and impartial decision?**

You are encouraged to follow City Council's Code of Ethics, available at http://www.ashevillenc.gov/Portals/0/city-documents/cityclerk/mayor_and_citycouncil/CityCouncilEthicsPolicy.pdf.

Agenda Template

This template is a guide for liaisons. It is not intended that these items remain in the order shown below; arrange them to best accommodate your board. If you do not need some of these items on a particular agenda, delete them. All agendas must have: **Call to Order, Approval of Minutes, Public Comment, Adjournment and contact information.**



**BOARD/COMMISSION NAME
DATE AND TIME OF MEETING
BUILDING NAME/ROOM NUMBER**

CURRENT BOARD MEMBERS: *(List names and officer title only)*

*Jaime Matthews, Chair
Alex Carmichael
etc.*

*Dawa Hitch, Vice Chair
Brian Postelle*

AGENDA

CALL TO ORDER *(Mandatory on every agenda)*

- 1. APPROVAL OF MINUTES** *(Mandatory on every agenda)*
- 2. UNFINISHED BUSINESS**
 - a.
 - b.
- 3. NEW BUSINESS**
 - a.
 - b.
- 4. PUBLIC COMMENT (5 CITIZENS, 3 MINUTES EACH)**
- 5. FUTURE AGENDA ITEMS**

NEXT MEETING: DATE/TIME/LOCATION

ADJOURNMENT *(Mandatory on every agenda)*

For more information on the _____ (name of board), please contact Board Liaison's Name at (list contact information). *(Mandatory on every agenda)*



**(BOARD NAME)
MINUTES**

**REGULAR MEETING
(DAY, MONTH DATE, YEAR)**

Board Members in Attendance:

(List members in attendance beginning with Chair, Vice Chair, and all other board members in alphabetical order.)

Staff in Attendance:

1. APPROVAL OF MINUTES

2. UNFINISHED BUSINESS (See attachment for phrases that can be used on a variety of items.)

- a.
- b.

3. NEW BUSINESS (See attachment)

- a.
- b.

4. PUBLIC COMMENT

List name of speaker(s) and brief description of topic. (Speakers will be allowed time to address concerns regarding items not on the agenda. The number of speakers and the length of time they are allowed to speak are governed by the board's bylaws. Requiring citizens to register before the meeting starts is recommended so the chair knows who is speaking.)

5. FUTURE AGENDA ITEMS

6. ADJOURN

Chair (name) adjourned the meeting at ____ a.m./p.m. without objection. (No motion, second or vote is required to adjourn the meeting unless there is an objection to adjourning.)

EXAMPLES OF PHRASES FOR MINUTES

Note: All items in italics need to be filled in when doing the minutes. The bold wording in parenthesis is direction only or further explanation of why it is recommended you use this format.

APPROVAL OF MINUTES

The minutes from the meeting of (M/D/YYYY) were approved on Board Member (name) motion, Board Member (name) second on a (vote count) vote.

MINUTES – AMENDED

The minutes for the regular meeting of (M/D/YYYY) were approved with the following amendments on Board Member (name) motion, Board Member (name) second on a (vote count) vote. The amendments were: (describe page, paragraph, line, or word that is changed.)

RECOMMENDATION

Recommendation adopting (brief description of topic should match what was on the agenda) was approved on Board Member (name) motion, Board Member (name) second on a (vote count) vote.

VOTE COUNT (Always shown with the aye votes first, nay votes second, and abstentions or recusal last.)

Unanimous - "Recommendation adopting (brief description of topic should match what was on the agenda) was approved on Board Member (name) motion, Board Member (name) second on a 9-0 vote."

Split vote - "...was approved on a 5-4 vote. Those members voting aye were: Board Members Smith, Jones, Brown, Lee, and Johnson. Those voting nay were: Chair Franklin, Vice Chair Gentry, and Board Members Spence and Ybarra."

Recusal - "...was approved on an 8-0-1 vote. Board Member (name) recused himself/herself from this item due to a conflict of interest and left the dais"

Other - "...was approved on an 8-0 vote. Board Member Gentry off the dais (or absent)." (The wording should reflect why the vote count does not total the number of board members.)

CONFLICT OF INTEREST

Recuse

Board Member (name) recused himself from this item due to a conflict of interest and left the dais. (Recusal is when the board member is required by law -- state, federal, or City Code -- not to take any part in the action because of a conflict of interest. This means no participation in the discussion and no vote. This requires the board member to complete a conflict of interest statement.)

Abstained

Board Member (name) abstained because (include the reason if one is given) (A board member may abstain, meaning not vote, for any reason whatsoever. For example, they are neutral on the topic and cannot decide. Choosing not to vote for personal reasons does not require an affidavit or non-participation in the discussion of an action.)

MOTIONS

Contracts/Agreements

The motion to recommend or not recommend the negotiation and execution (**could be just negotiation or just execution or both**) of a (*type of agreement or contract – could be a supply agreement or a professional services contract but should agree with the agenda*) with (*name of company*) for (*purpose of the contract*) was approved on Board Member (*name*) motion, Board Member (*name*) second on a (*vote count*) vote.

The motion recommending the negotiation and execution of an amendment to a (*type of agreement or contract*) with (*name of company*) for (*purpose of the contract*) was approved on Board Member (*name*) motion, Board Member (*name*) second on a (*vote count*) vote.

Zoning

The motion to recommend general commercial services-conditional overlay (CS-CO) combining district zoning to permit Vertical Mixed Use on the site was approved on Board Member (*name*) motion, Board Member (*name*) second on a (*vote count*) vote.

Failed Motion-(Two ways a motion can fail.)

The motion to (*description of the motion*) failed on Board Member (*name*) motion, Board Member (*name*) second on a (*vote count*) vote. Those members voting aye were: Chair Franklin, Vice Chair Gentry, and Board Members Spence and Ybarra. Those voting nay were: Board Members Smith, Jones, Brown, Lee and Johnson.

The motion by Board Member (*name*) failed due to the lack of a second.

Deny

The motion to deny (*list what the request was*) was approved on Board Member (*name*) motion, Board Member (*name*) second on a (*vote count*) vote.

Reconsider-(can only be used if a Board Member changes their mind at the same meeting and can only be done by one who voted with the prevailing side. Any member may second it.)

A motion to reconsider item (*item number*) was approved on Board Member (*name*) motion, Board Member (*name*) second on a (*vote count*) vote.

After this motion, then you need to show the original motion and the new action, which typically is the opposite of what was done earlier in the meeting.

Postponement

The motion to postpone this item to (*a specific date M/D/YYYY*) was approved on Board Member (*name*) motion, Board Member (*name*) second on a (*vote count*) vote.

Withdrawn-(If you do not know a specific postponement date then show the item as withdrawn. It can come back at a later date.)

This item was withdrawn on Board Member (*name*) motion, Board Member (*name*) second on a (*vote count*) vote."

AMENDMENTS

Friendly Amendment Accepted

The motion (or resolution) was approved with the following friendly amendment on motion by Board Member (name), seconded by Board Member (name) on a (vote count) vote. The friendly amendment from Board Member (name) was (describe amendment). This was accepted by the maker of the motion and Board Member (name), who seconded the motion.

Friendly Amendment Rejected

There was a friendly amendment from by Board Member (name) (describe friendly amendment offered). This was not accepted by the maker of the motion (or the second). **(If not accepted, board votes on the original motion or a substitute motion can be made.)**

Substitute Motion-(Two steps involved—first, list the original motion and then the substitute with the vote.)

There was a motion by Board Member (name), seconded by Board Member (name), to (description of the motion).

The substitute motion to (insert details of substitution motion) was approved on Board Member (name) motion, Board member (name) second on a (vote count) vote. — **(If the substitute passes, no vote is taken on the original motion.)**

There was a substitute motion from Board Member (name) (describe substitute motion). This motion failed for lack of a second (or enter the vote count if it failed by vote). **(If substitute fails, repeat original motion with complete vote count.)**

**BY LAWS AND RULES OF PROCEDURE
NAME OF BOARD/COMMISSION**

ARTICLE I

NAME AND CREATION

Section 1. The name of the entity shall be the name of board/commission of the City of Asheville.

Section 2. The Commission shall be a public body with all meetings of the Commission subject to the open meetings laws of the State of North Carolina.

ARTICLE II

PURPOSE

State the purpose/mission of the Board/Commission

ARTICLE III

MEMBERSHIP

Section 1. *Composition:* Membership on the Commission shall consist of # members with representation as follows:

A. # seats to be appointed by

B. # seats to be appointed by the

C. The remaining # seats will be appointed by the six appointed members

Section 2. *Removal:* Members of the Commission may be removed at the discretion of the Asheville City Council.

Section 3. *Attendance:* The failure of any Commission member to attend 75 percent or more of the meetings of the Commission held during a 12-month period, unless excused, may be grounds for removal.

Section 4. *Term of office:* Members of the Commission shall be appointed for three year terms. Membership shall be staggered to the end that the terms of all members shall not expire at the same time. Members may serve up to two consecutive terms. Members will be eligible for reappointment after having been off the Commission for at least (1) year.

ARTICLE IV

OFFICERS AND DUTIES

Section 1. *Chair:* The Commission shall have a Chair, who shall be elected by a majority vote of the voting membership of the Commission from among its members. The term of office shall be for one (1) year, or until the successor is duly elected, beginning on July 1st of each year. The Chair shall be eligible for reelection. The Chair may appoint any committees deemed necessary to investigate any matter before the Commission.

Section 2. *Vice-Chair:* The Commission shall have a Vice-Chair who shall be elected by the Commission from among its members in the same manner and for the same term as the Chair and shall be eligible for reelection. The Vice-Chair shall serve as Chair in the absence of the Chair, and when serving as Chair shall have the same powers and duties as the Chair.

Section 3. *Secretary:* The City/County Manager or his or her designee will serve as Secretary to the Commission. The Secretary will (1) keep all records; (2) conduct all correspondence of the Commission; (3) arrange for all required public notices to be given; and (4) take minutes at each Commission meeting which shall be kept in a permanent volume, for such duration as may be required by the North Carolina Municipal Records and Disposition Act. The minutes shall reflect all important facts pertaining to each meeting, every motion acted upon by the Commission, and all votes of members of the Commission upon any motion or upon the final determination of any question, indicating the names of members absent or failing to vote.

ARTICLE V

MEETINGS

Section 1. *Number of Meetings:* There shall be at least 9 regular meetings of the Commission each year.

Section 2. *Regular Meetings:* At the beginning of each year, the Secretary, in conjunction with the members of the Commission, shall adopt a schedule of meetings and set a regular meeting place for the year. The Commission may amend the schedule of meetings as deemed necessary.

Section 3 *Procedure:* Unless otherwise provided for by these Rules, Roberts Rules of Order will govern all points of order and procedure.

Section 4 *Agenda:* The Chair in consultation with the Secretary shall set the Agenda for each meeting.

Section 5. *Conduct of Meetings:* The order of business for meetings shall be as follows:

- a. The Chair shall preside over all meetings.
- b. The Chair of each appointed Committee may be called upon to present a report.
- c. The Chair may direct Committees to gather additional data, perform additional research or form subcommittees before voting on a report.
- d. The Commission led by the Chair shall vote on what action to take, if any, on all reports given.

Section 6. *Special Meetings:* Special meetings of the Commission may be called at any time by the Chair or Secretary. At least forty-eight (48) hours written or oral notice of the time and place of the special meeting(s) shall be given by the Secretary to each member of the Commission and the local press.

Section 7. *Emergency Meetings:* The Chair, the Secretary, or any two voting members of the Commission may at any time call an emergency Commission meeting by signing a written notice stating the time and place of the meeting and the subject(s) to be considered. The notice shall be delivered to the Chair and each Commission member at least six hours before the meeting. Notice of the meeting shall be given to all media that has filed a written emergency meeting notice request with the City Clerk or the Secretary. This notice shall be given either by telephone or by the same method used to notify the Chair and Commission members, and shall be given at the expense of the party notified. Emergency meetings shall only be called because of generally unexpected circumstances that require immediate consideration by the Commission. Only business connected with the emergency may be considered at an emergency meeting.

ARTICLE VI

QUORUM

Section 1. A simple majority of voting members of the Commission, excluding vacancies, shall constitute a quorum.

Section 2. Once a quorum is established, it shall not be destroyed by one of the members leaving.

ARTICLE VII

VOTING

Section 1. *Requirement:* All voting members are entitled to one vote, including the Chair. All voting members including the Chair must vote on all matters brought before the Commission unless excused by the remaining members according to law.

Section 2. *Exceptions:* 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 upon matters involving the consideration of his or her own financial interest or official conduct. In all other cases, a failure to vote by a member who is physically present for 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.

Section 3. *Roll Call:* All votes of the Commission shall be conducted in such fashion as to allow the minutes to reflect the vote of each Commission member. When a roll call vote is taken, the order of voting shall be alphabetical by last name of the Commission member except for the Chair, who shall vote last.

Section 4. *Majority:* The concurring vote of a majority of the members present of the Commission shall be necessary to act on any matter before the Commission.

ARTICLE VIII

POWERS AND DUTIES

Section 1. Authority: Pursuant to Resolution/Ordinance No. #, the Commission shall have the following powers and duties

A. *State powers, duties and authority given to the board/commission as laid out in establishing resolution or ordinance.*

B.

C.

ARTICLE IX

PUBLIC ADDRESS TO THE COMMISSION

Section 1. *Agenda:* The Board/Commission will use the suggested agenda template provided. The Board/Commission will include on every agenda a public comment period for all the meetings.

Section 2. *Time Limit:* Any person addressing the Commission shall be limited to a three-minute presentation. Any group of three (3) or more individuals, not including the speaker, making a presentation to the Commission may have a single spokesperson who will be allowed ten minutes to address the Commission. The Commission will receive written information from any individuals or groups that cannot conclude their presentations within these time limitations.

Section 3. *Prior to a Vote:* The public shall be allowed to comment on matters under consideration by the Commission prior to a final vote on the matter by the Commission.

Section 4. *Requests to be on Agenda:* Any individual or group who wishes to address the Commission may make a written request to the Secretary to be on the agenda. The Chair and the Secretary will determine, based upon completeness of the request and the other necessary business of the Commission, whether the matter will be placed on the agenda.

ARTICLE X

CONFLICT OF INTEREST

No Board/Commission member shall take part in the hearing, consideration or determination of any case in which the member is personally or financially interested.

ARTICLE XI

AMENDMENTS

These Rules may be amended by a three-fourths affirmative vote of the members of the Commission; provided, however, all amendments must be presented in writing at a regular meeting preceding the meeting at which the vote is taken.

These Rules are adopted this _____ day of _____, 2015.

Secretary

Chair

Appendix B: ROBERTS RULES OF ORDER

Four Types of Votes

In Favor: You support the motion

Against: You do not support the motion

Present: You agree with the majority

Abstain: You have a stake in the outcome or you do not have enough information.

How to Present a Motion

1. Obtain the Floor
 - a. Wait until the speaker is finished, raise your hand, and wait to be recognized.
 - b. Once recognized, rise and address the chair.
 - c. The chair will recognize you.
2. Make Your Motion
 - a. Speak clearly and concisely.
 - b. State your motion affirmatively. Say, "I move to..."
 - c. Avoid personalities and stay on the subject.
3. Wait for a Second
 - a. The chair will call for a second.
 - b. Another member will call "I second the motion."
 - c. If there is no second, your motion will not be considered.
4. The Chair Restates Your Motion
 - a. The chairperson must say, "It has been moved and seconded that we..."
 - b. After this happens, debate or voting can occur.
 - c. Your motion is now "assembly property," and you cannot change it without the consent of the representatives.

5. Expand on Your Motion

- a. Mover is allowed to speak first.
- b. Be concise.
- c. You may speak again after all other speakers are finished.

6. Voting

- a. After debate, the chair will say, "We are now in a vote on..."
 - b. The only thing that is allowed during a vote is point of order, division, privilege, roll call vote, or ballot vote.
 - c. The chair will either ask for a show of hands or a voice vote.
- Address all remarks to the person conducting the meeting.
 - Try to make all argumentation to the immediately pending motion.
 - Use the process of amending to improve flaws in a motion. Merely criticizing details of a proposal is counteractive and waste of time.
 - Always say, "I move to..." and never, "I motion to..."
 - Watch out for "friendly" amendments. They should only be used for spelling and grammatical errors. If a friendly amendment is made to correct a spelling or grammatical error and it appears to be uncontroversial, the chair should ask if there is any objection. With no objection, the chair may declare the amendment adopted. However, if there is an objection, the matter must be debated and voted.

To Do This	You Say This	May You Interrupt the speaker?	Must You Be Seconded?	Is the Motion Debatable?	Is the Motion Amendable?	What Vote is required?
Adjourn the meeting	I move that we adjourn.	No	Yes	No	No	Majority
Have a recess	I move that we recess until...	No	Yes	No	Yes	Majority
Complain about noise, talking, etc.	Privilege!	Yes	No	No	No	None
End debate	I move to end debate.	No	Yes	No	No	2/3

Postpone a decision	I move to table...	No	Yes	Yes	Yes	Majority
Have something researched more	I move to send to committee	No	Yes	Yes	Yes	Majority
Amend a motion	I move to amend the motion to say...	No	Yes	Yes	Yes	Majority
Introduce business	I move that...	No	Yes	Yes	Yes	Majority
Object to procedure	Point of order	Yes	No	No	No	None, Chair decides
Request/ Give information	Point of information	Yes	No	No	No	None, Chair decides
Take up a matter previously tabled	I move we take... from the table	No	Yes	No	No	Majority
Have everyone vote separately and with reason	Division	No	No	No	No	No, unless someone objects
Vote on the ruling of the chair	I appeal from the chair's decision	Yes	Yes	Yes	No	Majority
Suspend rules	I move to suspend rules for...	No	Yes	No	No	2/3
Avoid considering a matter	Objection	Yes	No	No	No	2/3

Appendix C: STATE STATUTE: MEETINGS OF PUBLIC BODIES

North Carolina State Statute, Chapter 143 Article 33C.
Meetings of Public Bodies.

§ 143-318.9. Public policy.

Whereas the public bodies that administer the legislative, policy-making, quasi-judicial, administrative, and advisory functions of North Carolina and its political subdivisions exist solely to conduct the people's business, it is the public policy of North Carolina that the hearings, deliberations, and actions of these bodies be conducted openly. (1979, c. 655, s. 1.)

§ 143-318.10. All official meetings of public bodies open to the public.

- (a) Except as provided in G.S. 143-318.11, 143-318.14A, and 143-318.18, each official meeting of a public body shall be open to the public, and any person is entitled to attend such a meeting.
- (b) As used in this Article, "public body" means any elected or appointed authority, board, commission, committee, council, or other body of the State, or of one or more counties, cities, school administrative units, constituent institutions of The University of North Carolina, or other political subdivisions or public corporations in the State that (i) is composed of two or more members and (ii) exercises or is authorized to exercise a legislative, policy-making, quasi-judicial, administrative, or advisory function. In addition, "public body" means the governing board of a "public hospital" as defined in G.S. 159-39 and the governing board of any nonprofit corporation to which a hospital facility has been sold or conveyed pursuant to G.S. 131E-8, any subsidiary of such nonprofit corporation, and any nonprofit corporation owning the corporation to which the hospital facility has been sold or conveyed.
- (c) "Public body" does not include (i) a meeting solely among the professional staff of a public body, or (ii) the medical staff of a public hospital or the medical staff of a hospital that has been sold or conveyed pursuant to G.S. 131E-8.
- (d) "Official meeting" means a meeting, assembly, or gathering together at any time or place or the simultaneous communication by conference telephone or other electronic means of a majority of the members of a public body for the purpose of conducting hearings, participating in deliberations, or voting upon or otherwise transacting the public business within the jurisdiction, real or apparent, of the public body. However, a social meeting or other informal assembly or gathering together of the members of a public body does not constitute an official meeting unless called or held to evade the spirit and purposes of this Article.
- (e) Every public body shall keep full and accurate minutes of all official meetings, including any closed sessions held pursuant to G.S. 143-318.11. Such minutes may be in written form or, at the option of the public body, may be in the form of sound or video and sound recordings. When a public body

meets in closed session, it shall keep a general account of the closed session so that a person not in attendance would have a reasonable understanding of what transpired. Such accounts may be a written narrative, or video or audio recordings. Such minutes and accounts shall be public records within the meaning of the Public Records Law, G.S. 132-1 et seq.; provided, however, that minutes or an account of a closed session conducted in compliance with G.S. 143-318.11 may be withheld from public inspection so long as public inspection would frustrate the purpose of a closed session. (1979, c. 655, s. 1; 1985 (Reg. Sess., 1986), c. 932, s. 4; 1991, c. 694, ss. 1, 2; 1993 (Reg. Sess., 1994), c. 570, s. 1; 1995, c. 509, s. 135.2(p); 1997-290, s. 1; 1997-456, s. 27; 2011-326, s. 8.)

§ 143-318.11. Closed sessions.

(a) Permitted Purposes. - It is the policy of this State 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 closed 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. The 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.

(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) Repealed by Session Laws 1991, c. 694, s. 4.

(c) Calling a Closed Session. - A public body may hold a closed session only upon a motion duly made and adopted at an open meeting. Every motion to close a meeting shall cite one or more of the permissible purposes listed in subsection (a) of this section. A motion based on subdivision (a)(1) of this section shall also state the name or citation of the law that renders the information to be discussed privileged or confidential. A motion based on subdivision (a)(3) of this section shall identify the parties in each existing lawsuit concerning which the public body expects to receive advice during the closed session.

(d) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 570, s. 2. (1979, c. 655, s. 1; 1981, c. 831; 1985 (Reg. Sess., 1986), c. 932, s. 5; 1991, c. 694, ss. 3, 4; 1993 (Reg. Sess., 1994), c. 570, s. 2; 1995, c. 509, s. 84; 1997-222, s. 2; 1997-290, s. 2; 2001-500, s. 2; 2003-180, s. 2; 2013-360, s. 8.41(b).)

§ 143-318.12. Public notice of official meetings.

(a) If a public body has established, by ordinance, resolution, or otherwise, a schedule of regular meetings, it shall cause a current copy of that schedule, showing the time and place of regular meetings, to be kept on file as follows:

(1) For public bodies that are part of State government, with the Secretary of State;

(2) For the governing board and each other public body that is part of a county government, with the clerk to the board of county commissioners;

(3) For the governing board and each other public body that is part of a city government, with the city clerk;

(4) For each other public body, with its clerk or secretary, or, if the public body does not have a clerk or secretary, with the clerk to the board of county commissioners in the county in which the public body normally holds its meetings.

If a public body changes its schedule of regular meetings, it shall cause the revised schedule to be filed as provided in subdivisions (1) through (4) of this subsection at least seven calendar days before the day of the first meeting held pursuant to the revised schedule.

(b) If a public body holds an official meeting at any time or place other than a time or place shown on the schedule filed pursuant to subsection (a) of this section, it shall give public notice of the time and place of that meeting as provided in this subsection.

(1) If a public body recesses a regular, special, or emergency meeting held pursuant to public notice given in compliance with this subsection, and the time and place at which the meeting is to be continued is announced in open session, no further notice shall be required.

(2) For any other meeting, except an emergency meeting, the public body shall cause written notice of the meeting stating its purpose (i) to be posted on the principal bulletin board of the public body or, if the public body has no such bulletin board, at the door of its usual meeting room, and (ii) to be mailed, e-mailed, or delivered to each newspaper, wire service, radio station, and television station that has filed a written request for notice with the clerk or secretary of the public body or with some other person designated by the public body. The public body shall also cause notice to be mailed, e-mailed, or delivered to any person, in addition to the representatives of the media listed above, who has filed a written request with the clerk, secretary, or other person designated by the public body. This notice shall be posted and mailed, e-mailed, or delivered at least 48 hours before the time of the meeting. The notice required to be posted on the principal bulletin board or at the door of its usual meeting room shall be posted on the door of the building or on the building in an area accessible to the public if the building containing the principal bulletin board or usual meeting room is closed to the public continuously for 48 hours before the time of the meeting. The public body may require each newspaper, wire service, radio station, and television station submitting a written request for notice to renew the request annually. The public body shall charge a fee to persons other than the media, who request notice, of ten dollars (\$10.00) per calendar year, and may require them to renew their requests quarterly. No fee shall be charged for notices sent by e-mail.

(3) For an emergency meeting, the public body shall cause notice of the meeting to be given to each local newspaper, local wire service, local radio station, and local television station that has filed a written request, which includes the newspaper's, wire service's, or station's telephone number, for emergency notice with the clerk or secretary of the public body or with some other person designated by the public body. This notice shall be given either by e-mail, by telephone, or by the same method used to notify the members of the public body and shall be given immediately after notice has been given to those members. This notice shall be given at the expense of the party notified. Only business

connected with the emergency may be considered at a meeting to which notice is given pursuant to this paragraph.

(c) Repealed by Session Laws 1991, c. 694, s. 6.

(d) If a public body has a Web site and has established a schedule of regular meetings, the public body shall post the schedule of regular meetings to the Web site.

(e) If a public body has a Web site that one or more of its employees maintains, the public body shall post notice of any meeting held under subdivisions (b)(1) and (b)(2) of this section prior to the scheduled time of that meeting.

(f) For purposes of this section, an "emergency meeting" is one called because of generally unexpected circumstances that require immediate consideration by the public body. (1979, c. 655, s. 1; 1991, c. 694, ss. 5, 6; 2009-350, s. 1.)

§ 143-318.13. Electronic meetings; written ballots; acting by reference.

(a) Electronic Meetings. - If a public body holds an official meeting by use of conference telephone or other electronic means, it shall provide a location and means whereby members of the public may listen to the meeting and the notice of the meeting required by this Article shall specify that location. A fee of up to twenty-five dollars (\$25.00) may be charged each such listener to defray in part the cost of providing the necessary location and equipment.

(b) Written Ballots. - Except as provided in this subsection or by joint resolution of the General Assembly, a public body may not vote by secret or written ballot. If a public body decides to vote by written ballot, each member of the body so voting shall sign his or her ballot; and the minutes of the public body shall show the vote of each member voting. The ballots shall be available for public inspection in the office of the clerk or secretary to the public body immediately following the meeting at which the vote took place and until the minutes of that meeting are approved, at which time the ballots may be destroyed.

(c) Acting by Reference. - The members of a public body shall not deliberate, vote, or otherwise take action upon any matter by reference to a letter, number or other designation, or other secret device or method, with the intention of making it impossible for persons attending a meeting of the public body to understand what is being deliberated, voted, or acted upon. However, this subsection does not prohibit a public body from deliberating, voting, or otherwise taking action by reference to an agenda, if copies of the agenda, sufficiently worded to enable the public to understand what is being deliberated, voted, or acted upon, are available for public inspection at the meeting. (1979, c. 655, s. 1.)

§ 143-318.14. Broadcasting or recording meetings.

(a) Except as herein below provided, any radio or television station is entitled to broadcast all or any part of a meeting required to be open. Any person may photograph, film, tape-record, or otherwise reproduce any part of a meeting required to be open.

(b) A public body may regulate the placement and use of equipment necessary for broadcasting, photographing, filming, or recording a meeting, so as to prevent undue interference with the meeting. However, the public body must allow such equipment to be placed within the meeting room in such a way as to permit its intended use, and the ordinary use of such equipment shall not be declared to constitute undue interference; provided, however, that if the public body, in good faith, should determine that the size of the meeting room is such that all the members of the public body, members of the public present, and the equipment and personnel necessary for broadcasting, photographing, filming, and tape-recording the meeting cannot be accommodated in the meeting room without unduly interfering with the meeting and an adequate alternative meeting room is not readily available, then the public body, acting in good faith and consistent with the purposes of this Article, may require the pooling of such equipment and the personnel operating it; and provided further, if the news media, in order to facilitate news coverage, request an alternate site for the meeting, and the public body grants the request, then the news media making such request shall pay any costs incurred by the public body in securing an alternate meeting site. (1979, c. 655, s. 1.)

§ 143-318.14A. Legislative commissions, committees, and standing subcommittees.

(a) Except as provided in subsection (e) below, all official meetings of commissions, committees, and standing subcommittees of the General Assembly (including, without limitation, joint committees and study committees), shall be held in open session. For the purpose of this section, the following also shall be considered to be "commissions, committees, and standing subcommittees of the General Assembly":

- (1) The Legislative Research Commission;
- (2) The Legislative Services Commission;
- (3) Repealed by Session Laws 2006-203, s. 93, effective July 1, 2007, and applicable to the budget for the 2007-2009 biennium and each subsequent biennium thereafter.
- (4) Repealed by Session Laws 2011-291, s. 2.50, effective June 24, 2011;
- (5) The Joint Legislative Commission on Governmental Operations;
- (6) The Joint Legislative Commission [Committee] on Local Government;
- (7) Repealed by Session Laws 1997, c. 443, s. 12.30, effective August 28, 1997.
- (8) Repealed by Session Laws 2011-291, s. 2.50, effective June 24, 2011;
- (9) The Environmental Review Commission;
- (10) The Joint Legislative Transportation Oversight Committee;
- (11) The Joint Legislative Education Oversight Committee;
- (12) Repealed by Session Laws 2011-266, s. 1.28(b), effective July 1, 2011 and Session Laws 2011-291, s. 2.50, effective June 24, 2011;

- (13) The Commission on Children with Special Needs;
- (14) Repealed by Session Laws 2011-291, s. 2.50, effective June 24, 2011;
- (15) The Agriculture and Forestry Awareness Study Commission; and
- (16) Repealed by Session Laws 2011-291, s. 2.50, effective June 24, 2011;
- (17) The standing Committees on Pensions and Retirement.

(b) Reasonable public notice of all meetings of commissions, committees, and standing subcommittees of the General Assembly shall be given. For purposes of this subsection, "reasonable public notice" includes, but is not limited to:

- (1) Notice given openly at a session of the Senate or of the House; or
- (2) Notice mailed or sent by electronic mail to those who have requested notice, and to the Legislative Services Office, which shall post the notice on the General Assembly web site.

G.S. 143-318.12 shall not apply to meetings of commissions, committees, and standing subcommittees of the General Assembly.

(c) A commission, committee, or standing subcommittee of the General Assembly may take final action only in an open meeting.

(d) A violation of this section by members of the General Assembly shall be punishable as prescribed by the rules of the House or the Senate.

(e) The following sections shall apply to meetings of commissions, committees, and standing subcommittees of the General Assembly: G.S. 143-318.10(e) and G.S. 143-318.11, G.S. 143-318.13 and G.S. 143-318.14, G.S. 143-318.16 through G.S. 143-318.17. (1991, c. 694, s. 7; 1991 (Reg. Sess., 1992), c. 785, s. 4; c. 1030, s. 42; 1993, c. 321, s. 169.2(f); 1997-443, s. 12.30; 2003-374, s. 1; 2006-203, s. 93; 2011-266, s. 1.28(b); 2011-291, s. 2.50.)

§ 143-318.15: Repealed by Session Laws 2006-203, s. 94, effective July 1, 2007, and applicable to the budget for the 2007-2009 biennium and each subsequent biennium thereafter.

§ 143-318.16. Injunctive relief against violations of Article.

(a) The General Court of Justice has jurisdiction to enter mandatory or prohibitory injunctions to enjoin (i) threatened violations of this Article, (ii) the recurrence of past violations of this Article, or (iii) continuing violations of this Article. Any person may bring an action in the appropriate division of the General Court of Justice seeking such an injunction; and the plaintiff need not allege or prove special damage different from that suffered by the public at large. It is not a defense to such an action that there is an adequate remedy at law.

(b) Any injunction entered pursuant to this section shall describe the acts enjoined with reference to the violations of this Article that have been proved in the action.

(c) Repealed by Session Laws 1985 (Reg. Sess., 1986), c. 932, s. 3, effective October 1, 1986. (1979, c. 655, s. 1; 1985 (Reg. Sess., 1986), c. 932, s. 3.)

§ 143-318.16A. Additional remedies for violations of Article.

(a) Any person may institute a suit in the superior court requesting the entry of a judgment declaring that any action of a public body was taken, considered, discussed, or deliberated in violation of this Article. Upon such a finding, the court may declare any such action null and void. Any person may seek such a declaratory judgment, and the plaintiff need not allege or prove special damage different from that suffered by the public at large. The public body whose action the suit seeks to set aside shall be made a party. The court may order other persons be made parties if they have or claim any right, title, or interest that would be directly affected by a declaratory judgment voiding the action that the suit seeks to set aside.

(b) A suit seeking declaratory relief under this section must be commenced within 45 days following the initial disclosure of the action that the suit seeks to have declared null and void; provided, however, that any suit for declaratory judgment brought pursuant to this section that seeks to set aside a bond order or bond referendum shall be commenced within the limitation periods prescribed by G.S. 159-59 and G.S. 159-62. If the challenged action is recorded in the minutes of the public body, its initial disclosure shall be deemed to have occurred on the date the minutes are first available for public inspection. If the challenged action is not recorded in the minutes of the public body, the date of its initial disclosure shall be determined by the court based on a finding as to when the plaintiff knew or should have known that the challenged action had been taken.

(c) In making the determination whether to declare the challenged action null and void, the court shall consider the following and any other relevant factors:

- (1) The extent to which the violation affected the substance of the challenged action;
- (2) The extent to which the violation thwarted or impaired access to meetings or proceedings that the public had a right to attend;
- (3) The extent to which the violation prevented or impaired public knowledge or understanding of the people's business;
- (4) Whether the violation was an isolated occurrence, or was a part of a continuing pattern of violations of this Article by the public body;
- (5) The extent to which persons relied upon the validity of the challenged action, and the effect on such persons of declaring the challenged action void;

(6) Whether the violation was committed in bad faith for the purpose of evading or subverting the public policy embodied in this Article.

(d) A declaratory judgment pursuant to this section may be entered as an alternative to, or in combination with, an injunction entered pursuant to G.S. 143-318.16.

(e) The validity of any enacted law or joint resolution or passed simple resolution of either house of the General Assembly is not affected by this Article. (1985 (Reg. Sess., 1986), c. 932, s. 1; 1991, c. 694, s. 8.)

§ 143-318.16B. Assessments and awards of attorneys' fees.

When an action is brought pursuant to G.S. 143-318.16 or G.S. 143-318.16A, the court may make written findings specifying the prevailing party or parties, and may award the prevailing party or parties a reasonable attorney's fee, to be taxed against the losing party or parties as part of the costs. The court may order that all or any portion of any fee as assessed be paid personally by any individual member or members of the public body found by the court to have knowingly or intentionally committed the violation; provided, that no order against any individual member shall issue in any case where the public body or that individual member seeks the advice of an attorney, and such advice is followed. (1985 (Reg. Sess., 1986), c. 932, s. 2; 1993 (Reg. Sess., 1994), c. 570, s. 3.)

§ 143-318.16C. Accelerated hearing; priority.

Actions brought pursuant to G.S. 143-318.16 or G.S. 143-318.16A shall be set down for immediate hearing, and subsequent proceedings in such actions shall be accorded priority by the trial and appellate courts. (1993 (Reg. Sess., 1994), c. 570, s. 4.)

§ 143-318.16D. Local acts.

Any reference in any city charter or local act to an "executive session" is amended to read "closed session". (1993 (Reg. Sess., 1994), c. 570, s. 4.)

§ 143-318.17. Disruptions of official meetings.

A person who willfully interrupts, disturbs, or disrupts an official meeting and who, upon being directed to leave the meeting by the presiding officer, willfully refuses to leave the meeting is guilty of a Class 2 misdemeanor. (1979, c. 655, s. 1; 1993, c. 539, s. 1028; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 143-318.18. Exceptions.

This Article does not apply to:

(1) Grand and petit juries.

(2) Any public body that is specifically authorized or directed by law to meet in executive or confidential session, to the extent of the authorization or direction.

- (3) The Judicial Standards Commission.
- (3a) The North Carolina Innocence Inquiry Commission.
- (4) Repealed by Session Laws 1991, c. 694, s. 9.
- (4a) The Legislative Ethics Committee.
- (4b) A conference committee of the General Assembly.
- (4c) A caucus by members of the General Assembly; however, no member of the General Assembly shall participate in a caucus which is called for the purpose of evading or subverting this Article.
- (5) Law enforcement agencies.
- (6) A public body authorized to investigate, examine, or determine the character and other qualifications of applicants for professional or occupational licenses or certificates or to take disciplinary actions against persons holding such licenses or certificates, (i) while preparing, approving, administering, or grading examinations or (ii) while meeting with respect to an individual applicant for or holder of such a license or certificate. This exception does not amend, repeal, or supersede any other statute that requires a public hearing or other practice and procedure in a proceeding before such a public body.
- (7) Any public body subject to the State Budget Act, Chapter 143C of the General Statutes and exercising quasi-judicial functions, during a meeting or session held solely for the purpose of making a decision in an adjudicatory action or proceeding.
- (8) The boards of trustees of endowment funds authorized by G.S. 116-36 or G.S. 116-238.
- (9) Repealed by Session Laws 1991, c. 694, s. 9.
- (10) Repealed by Session Laws 2013-234, s. 10, effective July 3, 2013.
- (11) The General Court of Justice. (1979, c. 655, s. 1; 1985, c. 757, s. 206(e); 1991, c. 694, s. 9; 2006-184, s. 6; 2006-203, s. 95; 2010-171, s. 5; 2013-234, s. 10.)

Appendix D: OPEN MEETINGS LAW FAQs

Written by the North Carolina Open Government Coalition. Originally published at <http://www.elon.edu/e-web/academics/communications/ncopengov/innc/openmeeting.xhtml>. Used with permission.

HOW TO USE OPEN MEETINGS LAW

Who is subject to the law?

It applies to any public body. "Public body" is a broad term that includes any authority, board, commission, committee, council or other body of state or local government that has at least two members and carries out one of five functions: legislative, policy-making, quasi-judicial, administrative or advisory. The law covers both elected and appointed boards and commission.

Are all meetings covered?

No. Only official meetings. An official meeting of a majority of the body's members -- in person or electronically -- to conduct a hearing, deliberate, take action or otherwise transact the public's business. And a court has said "deliberate" means to examine, weigh and reflect upon the reasons for or against a possible decision. If a body is only receiving information, that counts.

What about conference calls and e-mails?

Conference calls are covered. A chat room meeting would count as an official meeting. A message sent from one member of a body to all of the others would not -- it's like posting a message on a bulletin board. A gray area lies between those two examples. If the others were to reply to a message and then copy each other, and then more responses followed, the "conversation" may constitute an official meeting.

Workshop meetings, agenda meetings and work sessions?

Yes. These meetings, in which the board can be informed about matters and discuss them but not take final actions, are less formal than regular meetings but are considered official meetings and are open to the public. Even if the board does nothing but receive information, the meeting is public.

Can a board majority gather informally or socially without constituting an "official meeting?"

Social gatherings are allowed, but boards are not permitted to use these events as an excuse to deliberate outside of the public eye. Meals that a board regularly takes together, for example, are considered official meetings.

Can a board chairman meet individually, and privately, with each member to discuss a public matter?

Yes. However, the law also says a board must not essentially take action through these individual meetings.

Do they have to announce meetings?

Yes. The requirements vary according to the type of meeting: regular, special, emergency and recessed. Special meetings are official meetings that are not emergency meetings, recessed meetings or regular meetings. The law required boards give at least 48 hours of notice for special meetings, stating the time, place and purpose of the meeting. Notice must be posted on a board's principle bulletin board, if it has one or the door of the board's usual meeting place. Notice must also be made to everyone who has submitted a written request for notice.

CLOSED MEETINGS

When are they allowed?

When a board plans to discuss particular issues that generally fall into the following categories, they are exempted from the open meetings law: confidential information, consultations with an attorney, claims or litigation, business location or expansion, real property acquisition, employment contracts, certain personnel matters and investigations. See G.S. 143-318.11.

What procedure must be followed?

The law requires the board to disclose the reason for going into the closed session is, and then vote on it. In addition, if the body says it is going to discuss "confidential information" it must cite the law that makes the matter confidential. If the body wants to discuss pending litigation, the motion must identify the parties to the litigation. If officials go into a closed session to talk about one thing, can they can't talk about other matters. To broaden the discussion, the board must return to open session, disclosed the new topic, and vote to return to closed session.

If a board doesn't follow proper procedure what can you do?

You can stand up, ask for permission to speak, and object.

What do I say?

"North Carolina's open meetings law, Chapter 143 of the General Statutes, requires that all meetings of state and local governmental bodies be open to the public unless there is a specific statutory exemption authorizing closure. If you contend that this meeting can be closed legally, please advise me of the statutory authority for your action."

Must they keep minutes of a closed meeting?

Yes. And you can ask to see them. The law requires "minutes" be kept that are "full and accurate" and that they provide a "general account" to let a person who wasn't there "have a reasonable understanding of what transpired." A "general account" is intended to provide some sort of record of the discussion that took place behind closed doors, whether action was taken or not. The law is unclear on how detailed the minutes must be. The board must must make those minutes available for public inspections as soon as the reason for the closed session is no longer valid.

Is a board allowed to vote in a closed meeting?

Yes, but the vote must be disclosed in the minutes.

Can a board prohibit its members from disclosing what happened in a closed session?

No. Permission to hold a closed session is simply permission to exclude the public; it is not authorization to prohibit those present from disclosing what occurred.

What happens if the Open Meetings Law is violated?

1. A court can issue a declaratory judgment, which is a finding that a violation has taken place.
2. If someone seeks an injunction against violations, a court may order the public body not to violate the law in the future.
3. A person can ask a court to invalidate an action taken (or deliberated) based upon a violation of the open meetings law. Your rights in the meeting

Can you take pictures or tape record the meeting?

Taping, photographing, filming, or other types of recording open meetings are permitted by any member of the public. Radio and television station are allowed to broadcast open meetings.

Can public bodies hide the subject of their deliberations?

No. Public bodies must deliberate in such a way that a member of the public should be able to understand what they are talking about. They may not, for example, refer to secret letters or codes in their deliberations. They may, however, refer to items on an agenda made available to the public before the meeting as long as the agenda is sufficient to explain what the board is discussing.

What kind of background materials is a board required by law to release?

Enough for the public to understand the subject of deliberations and actions. The public is entitled to background materials distributed to the board under the public records statute.

Does a citizen have the right to address a public body?

No. You have a right to attend and listen. You do not have a right to talk to the public body or participate in its deliberations, unless the matter under consideration is part of a public hearing.

Are North Carolina courts open to the public?

With few exceptions courts in North Carolina are open to the public. The N.C. Constitution states "All courts shall be open." North Carolina's federal courts are also open to the public and press. Unlike state courts, federal courts do not permit camera coverage.

When can courts be closed to the public?

In the 1980's the U.S. Supreme Court concluded that the First Admendment gives the public and press the right to attend criminal trials (including preliminary hearings, jury selection, opening statements, witness examination and closing) unless a trial judge enters an order containing specific written findings. Those findings must demonstrate that:

- that closure is absolutely necessary to protect a "compelling" governmental interest;
- that no less restrictive measure short of closing the courtroom will suffice to protect that interest; and
- that the closure is "narrowly tailored " so that its scope and duration are as limited as possible.

Are there exceptions to the general rule of open court proceedings?

Yes those exceptions are:

- Commitment hearings. The N.C. Court of Appeals has ruled that there is no right of access to involuntary civil commitment proceedings. However commitment hearings for people found guilty by reason of insanity in criminal cases are public and must be held in the court where the original trial took place.
- Conference Any bench conference between judges and lawyers, conferences between lawyer and their clients are not intended for the public.
- Grand jury proceedings. Federal and state law requires that grand jury proceedings be conducted in private. It is also a crime for a grand juror to release information that is presented to a grand jury. It is not a crime for a news organization to publish the information.

- Juvenile proceedings. Once closed as a matter of public policy juvenile proceedings are now presumptively open to the public and the court must find "good cause" to close a proceeding. No proceeding can be closed if the juvenile requests that it be open.
- Sex crimes cases. In cases involving charges of rape, attempted rape, sex offense or attempted sex offense the court may be closed during the testimony of the victim.
- Potential for violence. This law is rarely used and if invoked, it probably would not call for the exclusion of all persons.
- Proceedings involving medical peer review records. This is a recent ruling by the N.C. Supreme Court that held the public does not have a right to access court hearings that concern confidential information relating to medical peer review records.
- Trade secrets. Generally a court can be closed while trade secrets are discussed.
- Victim's compensation. These take place before administrative law judges who may exclude from a hearing all persons not directly involved in the hearing during the taking of medical and law enforcement information as evidence.

Appendix D: PUBLIC RECORDS FAQs

Written by the North Carolina Open Government Coalition. Originally published at <http://www.elon.edu/e-web/academics/communications/ncopengov/holders/faq.xhtml#Os1>. Used with permission.

The Law

What are considered public records in NC local governments?

With very few exceptions, all records created or received by officials and employees while transacting official government business are public records and must be retained, stored, disposed of, and made available for inspection and copying in accordance with the law. This applies to records in officials' and employees' homes and on home or personal computers if the record pertains to government business. The public records law is primarily contained in N.C.G.S.132-1 through N.C.G.S. 132-10, which is on-line at:http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/ByChapter/Chapter_132.html. Public records include paper and electronic documents (including emails and other electronic messages), photos, videos, maps, computer files, computer communications and voice mail messages. Unless the purpose and content of a record is personal in nature and not related to the transaction of local government business, then it is a public record and should be managed according to the Records Retention and Disposition Schedule ("Schedule"), if your governing board has adopted this Schedule. If your governing board has not adopted this Schedule, then you must retain all records about your government forever.

There are certain records that are exempted from the definition of public records, and there are certain public records that do not have to be disclosed.

Who owns public records in NC local government?

NC local government public records and public information are the property of the people. Employees and officials are records custodians, and are responsible for retaining these records and making them available to the public when they request them.

Who is responsible for keeping local government records?

The public official in charge of an office is designated to be the custodian of records for that office (N.C.G.S. § 132-2). Practically, each official and employee is responsible for retaining the public records in his or her possession. For example, if you work in a particular department and you send/receive emails about official government business, you're responsible for retaining them for the appropriate retention period, unless your local government has established policies that direct others to be responsible for retaining them.

Who may request local government public records?

Anyone.

Records Management and Retention and Disposition

Do I have to keep every record I send/receive about local government business forever?

If your governing board has adopted the Records Retention and Disposition Schedule, then you may likely dispose of records after they've exceeded the retention period outlined in that document. However, we must retain all records that are subject to litigation, audits, or that have outstanding requests pertaining to them even after they've exceeded the retention period. You must keep these records until the outstanding action is resolved. And, in some local governments, accreditation agencies may require you to keep certain

records for a longer period of time. Always work with your supervisor or legal staff if you have any questions.

If your governing board has not adopted the Records Retention and Disposition Schedule, then you must keep all records about local government business forever – you may not dispose of anything.

How do I know how long I need to keep records?

Refer to the Records Retention and Disposition Schedule, which describes the minimum retention period. It's good to set aside time once a year for records management duties (making decisions about what files to keep and purge according to the Records Retention and Disposition Schedule). Remember, records must be retained if there is an outstanding record request, court subpoena or court order, some state or federal law or grant requirement, if litigation is pending or threatened or if there is any other outstanding action pertaining to the record.

And, even if the record has surpassed the minimum retention period, if it's an active record that you use in your duties, then keep it as long as it's useful to you.

How long do I keep emails and other types of electronic messages I sent/received about local government business?

Emails and any other type of electronic messages are just as much "official" records as paper records. The content of the electronic message determines its record series status according to the Records Retention and Disposition Schedule. It's a good practice to develop good electronic message folder systems to ensure easy retrieval of these messages, instead of keeping them in your inbox and sent box. As with your paper records, if an email is transitory, then you likely do not need to retain it once it no longer has value to you. You should segregate confidential and protected electronic messages from others messages so you don't inadvertently release them in response to a public records request.

How should I file my emails and other electronic messages to ensure easy retrieval when I need them to respond to a record request?

Create electronic message file folders just as you would paper file folders. An electronic message file system should follow the same philosophy as a paper file system. For example, you may file general emails by calendar or fiscal years; you may develop subject folder systems, etc.

What are transitory records?

Transitory records are records that are ephemeral, temporary, or transient in nature and have only short-term administrative value.

Transitory records are public records, but because of their nature, they do not typically have to be retained. Transitory records include (but are not limited to) messages with short-term or no administrative value, such as many, but not all, voice mails, self-sticking notes, facsimile cover sheets that do not contain substantive information, and telephone messages. Transitory records are created primarily for the informal communication of information and not to perpetuate or formalize knowledge. Transitory records do not set policy, establish guidelines or procedures, discuss a local government business matter, discuss a decision, certify a transaction, or act as evidence of receipt. (Certified or registered mail return receipts that contain important information about the names of the sender/recipient and pertinent dates are not transitory.) Transitory records may be treated as having a reference or administrative value that ends when you no longer need the information in the record. Transitory records may be purged when their reference value ends unless there is some other reason that record should be retained, such as an outstanding record

request, court subpoena or court order, some state or federal law or grant requirement, or if litigation is pending or threatened. However, if a record request is received for a transitory record before that transitory record has been purged, that transitory record must be disclosed.

What are the appropriate methods of destroying records after the time period for keeping those records has expired (according to the Records Retention and Disposition Schedule)?

If the governing board has adopted the Records Retention and Disposition Schedule, then after records have surpassed the retention period, we may dispose of them as allowed by N.C. Administrative Code, Title 7, Chapter 4, Subchapter M, Section .0510 (except those records that are the subject of litigation, audits or any outstanding actions):

We should shred paper records that contain confidential, protected or secure information with a crosscut shredder. We may recycle paper records that do not contain confidential, sensitive or secure information, as long as the contract with the recycling provider stipulates that recycled materials will not be resold as documents or records.

If the governing board has not adopted the Records Retention and Disposition Schedule, then you may not destroy any of your records.

Is it OK for me to maintain government records on my personal computer?

We should not maintain government records on personal computers or devices. Maintain all government records on the local government computer/device. This will ensure that we're never in a position of being asked to provide or search personal technology to satisfy a record request.

Likewise, it's best to maintain personal records on personal devices. If it's important to maintain a personal record on a government device for a brief period of time (and if the local government allows this), then create a separate folder for these personal records. Delete personal records when they're no longer needed from the government issued device.