

## HOW MUNICIPAL GOVERNING BOARDS DO THEIR WORK

- Where do they get their powers?
- How do they exercise those powers?
- What are the necessary procedures so the actions they take are legal?

### I. Sources of Municipal Authority (significance of charter)

General rule: Municipalities are creatures of the state and only have those powers granted to them by the General Assembly. The two main sources of authority are:

- General Statutes, especially G.S. Chapter 160A
- Local Acts, including the charter

#### *§ 160A-1. Application and meaning of terms.\**

(1) "Charter" means the entire body of local acts currently in force applicable to a particular city, including articles of incorporation issued to a city by an administrative agency of the State, and any amendments thereto adopted pursuant to 1917 Public Laws, Chapter 136, Subchapter 16, Part VIII, sections 1 and 2, or Article 5, Part 4, of this Chapter.

(4) "General law" means an act of the General Assembly applying to all units of local government, to all cities, or to all cities within a class defined by population or other criteria, including a law that meets the foregoing standards but contains a clause or section exempting from its effect one or more cities or all cities in one or more counties.

(5) "Local act" means an act of the General Assembly applying to one or more specific cities by name, or to all cities within one or more specifically named counties. "Local act" is interchangeable with the terms "special act," "public-local act," and "private act," is used throughout this Chapter in preference to those terms, and shall mean a local act as defined in this subdivision without regard to the terminology employed in charters, local acts, or other portions of the General Statutes.

### II. Appointment of City Clerk/Deputy

- Importance of clerk's position – there must be a clerk
- Statute is silent on who appoints (see charter)
- Duties may be broad or narrow

#### *§ 160A-171. City clerk; duties*

There shall be a city clerk who shall give notice of meetings of the council, keep a journal of the proceedings of the council, be the custodian of all city records, and shall perform any other duties that may be required by law or the council.

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\*All statutory materials are from the North Carolina General Statutes, unless otherwise indicated.

**§ 160A-172. Deputy clerk**

The council may provide for a deputy city clerk who shall have full authority to exercise and perform any of the powers and duties of the city clerk that may be specified by the council.

**III. Procedures for City Council Meetings**

General rule: For the governing board to take action that is legally valid, it must

- Act as a body, not as individuals
- Act in a properly called and constituted meeting
- Follow the appropriate voting rules

**A. Types of Meetings and Notice Requirements**

**1. Organizational Meeting**

- Sitting council can choose anytime between certification of election results and the first regular meeting in December (default date is first meeting in December).
- Members must qualify for office by taking the oath. Cannot be sworn before the organizational meeting but if absent can be sworn thereafter.
- Mayor pro tem must be selected. Statute does not specify how chosen (different traditions).
- Other business can be conducted.

**§ 160A-68. Organizational meeting of council**

(a) The council may fix the date and time of its organizational meeting. The organizational meeting may be held at any time after the results of the municipal election have been officially determined and published pursuant to Subchapter IX of Chapter 163 of the General Statutes but not later than the date and time of the first regular meeting of the council in December after the results of the municipal election have been certified pursuant to that Subchapter. If the council fails to fix the date and time of its organizational meeting, then the meeting shall be held on the date and at the time of the first regular meeting in December after the results of the municipal election have been certified pursuant to Subchapter IX of Chapter 163 of the General Statutes.

(b) At the organizational meeting, the newly elected mayor and councilmen shall qualify by taking the oath of office prescribed in Article VI, Section 7 of the Constitution. The organization of the council shall take place notwithstanding the absence, death, refusal to serve, failure to qualify, or nonelection of one or more members, but at least a quorum of the members must be present.

(c) All local acts or provisions of city charters which prescribe a particular meeting day or date for the organizational meeting of a council are hereby repealed.

- Mayor Pro Tem is mandatory. Statute provides duties, but check charter for variations.
- Council can confer powers in absence of the mayor. May want to have a standing order to confer powers to Mayor Pro Tem when mayor is out of town or absent from meeting.
- Council can confer powers if mayor incapacitated (but a determination of incapacity requires a unanimous vote).
- Mayor Pro Tem still votes.

***§ 160A-70. Mayor pro tempore; disability of mayor***

At the organizational meeting, the council shall elect from among its members a mayor pro tempore to serve at the pleasure of the council. A councilman serving as mayor pro tempore shall be entitled to vote on all matters and shall be considered a councilman for all purposes, including the determination of whether a quorum is present. During the absence of the mayor, the council may confer upon the mayor pro tempore any of the powers and duties of the mayor. If the mayor should become physically or mentally incapable of performing the duties of his office, the council may by unanimous vote declare that he is incapacitated and confer any of his powers and duties on the mayor pro tempore. Upon the mayor's declaration that he is no longer incapacitated, and with the concurrence of a majority of the council, the mayor shall resume the exercise of his powers and duties. In the event both the mayor and the mayor pro tempore are absent from a meeting, the council may elect from its members a temporary chairman to preside in such absence.

**2. Regular Meetings**

- Held according to a set schedule.
- Council fixes time and place (if they don't, default is first Monday).
- Open Meetings Law: Notice provided by filing a copy of the schedule with clerk. Changes must be filed at least 7 days before the first meeting under the new schedule.
- If the public body has a website, post schedule of regular meetings there.

**3. Special Meetings**

- Any meeting not held according to the set schedule.
- Called according to procedures in G.S. 160A-71(b).
- Open Meetings Law: Notice at least 48 hours before meeting, posted on bulletin board or meeting room door and mailed, emailed or delivered to "sunshine list" (media or other person who has requested). If building containing the bulletin board or meeting room is closed to the public continuously for 48 hours before the meeting, the notice must be posted on the door of the building or on the building in an area accessible to the public.
- If the website is maintained by one or more of the public body's employees, notice of special meetings must be posted to the website before the scheduled time of the meeting.

#### 4. Emergency Meetings

- Called due to unexpected circumstances needing immediate consideration (cannot wait 48 hours).
- Open Meetings Law: Notice given to media on sunshine list by same method as council is notified.

#### 5. Recessed Meetings

- Regular, special or emergency meeting can be recessed to be reconvened at a specified time and place to complete business.
- Considered to be continuation of the same meeting.
- If motion made and adopted in open session, generally no further notice required.
- However, if the website is maintained by one or more of the public body's employees, notice of recessed meetings must be posted to the website before the scheduled time of the reconvened meeting.

#### 6. Closed Sessions

- May be held only on a motion adopted in open session by a majority of those present and voting.
- Motion must state the purpose set out in the statute that permits the closed session.
- By statute, two of the purposes require a more detailed motion – [§143-318.11(a)(1) – confidential matters and § 143-318.11(a)(3) – pending litigation]
- By case law, a more detailed motion is required for the real property acquisition purpose under § 143-318.11(a)(5).

#### ***§ 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:

...

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

...

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]

(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 be 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 meetings 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.

**§ 160A-71. Regular and special meetings; recessed and adjourned meetings; procedure**

(a) The council shall fix the time and place for its regular meetings. If no action has been taken fixing the time and place for regular meetings, a regular meeting shall be held at least once a month at 10:00 A.M. on the first Monday of the month.

(b) (1) The mayor, the mayor pro tempore, or any two members of the council may at any time call a special council meeting by signing a written notice stating the time and place of the meeting and the subjects to be considered. The notice shall be delivered to the mayor and each councilman or left at his usual dwelling place at least six hours before the meeting. Only those items of business specified in the notice may be transacted at a special meeting, unless all members are present or have signed a written waiver of notice. In addition to the procedures set out in this subsection or any city charter, a person or persons calling a special meeting of a city council shall comply with the notice requirements of Article 33C of General Statutes Chapter 143.

(2) Special meetings may be held at any time when the mayor and all members of the council are present and consent thereto, or when those not present have signed a written waiver of notice.

(3) During any regular meeting, or any duly called special meeting, the council may call or schedule a special meeting, provided that the motion or resolution calling or scheduling any such special meeting shall specify the time, place and purpose or purposes of such meeting and shall be adopted during an open session.

(b1) Any regular or duly called special meeting may be recessed to reconvene at a time and place certain, or may be adjourned to reconvene at a time and place certain, by the council.

**§ 143-318.11. Closed Sessions**

(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.

***Boney Publishers, Inc. v. Burlington City Council*, 151 N.C. App. 651, 566 S.E.2d 701 (2002).**

The court held that a public body holding a closed session on real property acquisition must disclose before the closed session the following information: (1) the property's current owner, (2) the property's location, and (3) the use or uses to which the public body intends to put the property. (If one of these items is actually under negotiation, the requirement does not apply.) D.M. Lawrence, Open Meetings and Local Governments in North Carolina (7th ed. 2008)

## B. Agendas and Parliamentary Procedure

### § 160A-71.

(c) The council may adopt its own rules of procedure, not inconsistent with the city charter, general law, or generally accepted principles of parliamentary procedure.

## C. Quorum

### 1. Statutory Requirements

- How many members must be present in order to hold a meeting?
- Member cannot unilaterally destroy quorum by leaving; if unexcused, count as present.
- Check charter for variations.

### § 160A-74. Quorum

A majority of the actual membership of the council plus the mayor, excluding vacant seats, shall constitute a quorum. A member who has withdrawn from a meeting without being excused by majority vote of the remaining members present shall be counted as present for purposes of determining whether or not a quorum is present.

### 2. Determining Quorums for City Councils

How many seats are there on your council, not counting the mayor?	_____
Add the mayor	+ 1
How many seats (council or mayor) are currently vacant (no officeholder)?	-_____
Subtract the number of vacancies	
TOTAL	_____

IF TOTAL IS:

YOUR COUNCIL'S QUORUM CURRENTLY IS:

2	2
3	2
4	3
5	3
6	4
7	4
8	5
9	5
10	6
11	6
12	7
13	7

## **D. Voting**

### **1. Statutory Requirements**

No “abstaining”: Councilmembers have a duty to vote, except in very limited circumstances where there is a clear conflict of interest and they are excused from voting by remaining members.

- If member is not excused from the vote, but is still physically present - must be recorded as voting “yes” on the motion.
- If member leaves the meeting without being excused - must be recorded as voting “yes” on all remaining motions.

#### Voting rules made simple:

In general -

- For most routine matters (motions, resolutions): need a majority of the number of members present and voting.
- For important matters (ordinance, expenditure of public funds, contract): need an absolute majority (a majority of the actual membership of the body – the number of seats minus those excused from voting).
- For very important matters (ordinance on the day it is introduced): need an extraordinary majority – two-thirds of the actual membership of the body, minus vacancies.
- There are special voting rules for the budget, requiring a simpler majority.

#### **§ 160A-75. Voting**

No member shall be excused from voting except upon matters involving the consideration of the member’s own financial interest or official conduct or on matters on which the member is prohibited from voting under G.S. 14-234, 160A-381(d) or 160A-388(e)(2). In all other cases except votes taken under G.S. 160A-385, a failure to vote by a member who is physically present in the council chamber, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an affirmative vote. The question of the compensation and allowances of members of the council is not a matter involving a member's own financial interest or official conduct.

An affirmative vote equal to a majority of all the members of the council not excused from voting on the question in issue, including the mayor's vote in case of an equal division, shall be required to adopt an ordinance, take any action having the effect of an ordinance, authorize or commit the expenditure of public funds, or make, ratify, or authorize any contract on behalf of the city. In addition, no ordinance nor any action having the effect of any ordinance may be finally adopted on the date on which it is introduced except by an affirmative vote equal to or greater than two thirds of all the actual membership of the council, excluding vacant seats and not including the mayor unless the mayor has the right to vote on all questions before the council. For purposes of this section, an ordinance shall be deemed to have been introduced on the date the subject matter is first voted on by the council.



§ 14-234.

(b1) No public officer who will derive a direct benefit from a contract entered into under ... [this section] ... may deliberate or vote on the contract or attempt to influence any other person who is involved in making or administering the contract.

§ 160A-381.

(d) A city council member shall not vote on any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial and readily identifiable financial impact on the member.

§ 160A-388.

(e)(2) A member of any board exercising quasi-judicial functions pursuant to this Article [Planning and Regulation of Development] shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

§ 160A-385.

Zoning ordinances may from time to time be amended, supplemented, changed, modified or repealed. ...

§ 160A-69. *Mayor to preside over council*

The mayor shall preside at all council meetings, but shall have the right to vote only when there are equal numbers of votes in the affirmative and in the negative. In a city where the mayor is elected by the council from among its membership, and the city charter makes no provision as to the right of the mayor to vote, he shall have the right to vote as a council member on all matters before the council, but shall have no right to break a tie vote in which he participated.

**2. Calculating Extraordinary Votes for City Councils**

*a. Ordinance on Day of Introduction. Number of votes needed to finally adopt an ordinance or an action having the effect of an ordinance on the date on which it is introduced.*

1. What is the actual membership of your council? \_\_\_\_\_  
Do not include the mayor, unless he or she has the right to vote on all questions before the council. If the mayor does vote on all questions, then include him or her.

2. How many of the seats you listed in question 1 are currently vacant (no officeholder)? Subtract the number of vacancies. - \_\_\_\_\_

TOTAL \_\_\_\_\_

IF TOTAL IS:

THE NUMBER OF "YES" VOTES YOU CURRENTLY  
 NEED IS:

2	2
3	2
4	3
5	4
6	4
7	5
8	6
9	6
10	7
11	8
12	9
13	9

***b. Ordinance or Contract General Rule.*** *Number of votes needed to adopt an ordinance, take any action having the effect of an ordinance, authorize or commit the expenditure of public funds, or make, ratify, or authorize any contract on behalf of the city.*

*[Note: When voting on the budget ordinance or on budget amendments, follow the specific rules found in G.S. 159–17, rather than these rules, despite any language in G.S. 160A–75 that would seem to indicate otherwise.]*

1. How many members are there on your council? \_\_\_\_\_  
 Do not include the mayor, unless he or she is counted as a council member for all purposes (including voting). If the mayor is so counted, then include him or her. Do not subtract vacant seats.

2. How many members of the council have been excused from voting on the question in issue? Subtract the number excused. - \_\_\_\_\_

TOTAL \_\_\_\_\_

IF TOTAL IS:

THE NUMBER OF "YES" VOTES YOU NEED ON THIS  
 QUESTION IS:\*

2	2
3	2
4	3
5	3
6	4
7	4
8	5
9	5
10	6
11	6
12	7
13	7

\*If there is a tie vote and the mayor breaks the tie by voting in favor of the proposal, include the mayor's vote in your total number of "yes" votes.

## **E. Minutes**

### ***§ 160A-72. Minutes to be kept; ayes and noes***

Full and accurate minutes of the council proceedings shall be kept, and shall be open to the inspection of the public. The results of each vote shall be recorded in the minutes, and upon the request of any member of the council, the ayes and noes upon any question shall be taken.

## **IV. Ordinances**

### **A. Adoption Generally**

***See North Carolina General Statutes § 160A-75, previously reprinted herein.***

### **B. Special Rule for Budget Ordinance**

#### ***§ 159-17. Ordinance procedures not applicable to budget or project ordinance adoption***

Notwithstanding the provisions of any city charter, general law, or local act:

(1) Any action with respect to the adoption or amendment of the budget ordinance or any project ordinance may be taken at any regular or special meeting of the governing board by a simple majority of those present and voting, a quorum being present;

(2) No action taken with respect to the adoption or amendment of the budget ordinance or any project ordinance need be published or is subject to any other procedural requirement governing the adoption of ordinances or resolutions by the governing board other than the procedures set out in this Article;

(3) The adoption and amendment of the budget ordinance or any project ordinance and the levy of taxes in the budget ordinance are not subject to the provisions of any city charter or local act concerning initiative or referendum.

During the period beginning with the submission of the budget to the governing board and ending with the adoption of the budget ordinance, the governing board may hold any special meetings that may be necessary to complete its work on the budget ordinance. Except for the notice requirements of G.S. 143-318.12, which continue to apply, no provision of law concerning the call of special meetings applies during that period so long as (i) each member of the board has actual notice of each special meeting called for the purpose of considering the budget, and (ii) no business other than consideration of the budget is taken up. This section does not allow the holding of closed meetings or executive sessions by any governing board otherwise prohibited by law from holding such a meeting or session, and may not be construed to do so.

No general law, city charter, or local act enacted or taking effect after July 1, 1973, may be construed to modify, amend, or repeal any portion of this section unless it expressly so provides by specific reference to this section.

### **C. Special Rules for Franchises and Technical Ordinances**

#### ***§ 160A-76. Franchises; technical ordinances***

(a) No ordinance making a grant, renewal, extension, or amendment of any franchise shall be finally adopted until it has been passed at two regular meetings of the council, and no such grant, renewal, extension, or amendment shall be made otherwise than by ordinance.

(b) Any published technical code or any standards or regulations promulgated by any public agency may be adopted in an ordinance by reference subject to G.S. 143-138(e). A technical code or set of standards or regulations adopted by reference in a city ordinance shall have the force of law within the city. Official copies of all technical codes, standards, and regulations adopted by reference shall be maintained for public inspection in the office of the city clerk.

### **D. Ordinance Book**

#### ***§ 160A-78. Ordinance book***

Effective January 1, 1972, each city shall file a true copy of each ordinance adopted on or after January 1, 1972, in an ordinance book separate and apart from the council's minute book. The ordinance book shall be appropriately indexed and maintained for public inspection in the office of the city clerk. Effective July 1, 1973, true copies of all ordinances that were adopted before January 1, 1972, and are still in effect shall be filed and indexed in the ordinance book. If the city has adopted and issued a code of ordinances in compliance with G.S. 160A-77, its ordinances shall be filed and indexed in the ordinance book until they are codified.

### **E. Code of Ordinances**

#### ***§ 160A-77. Code of ordinances***

(a) Not later than July 1, 1974, each city having a population of 5,000 or more shall adopt and issue a code of its ordinances. The code may be reproduced by any method that gives legible and permanent copies, and may be issued as a securely bound book or books with periodic separately bound supplements, or as a loose-leaf book maintained by replacement pages. Supplements or replacement pages should be adopted and issued annually at least, unless no additions to or modifications of the code have been adopted by the council during the year. The code may consist of two separate parts, the "General Ordinances" and the "Technical Ordinances." The technical ordinances may be published as separate books or pamphlets, and may include ordinances regarding the construction of buildings, the installation of plumbing and electric wiring, the installation of cooling and heating equipment, the use of public utilities, buildings, or facilities operated by the city, the zoning ordinance, the subdivision control ordinance, the privilege license tax ordinance, and other similar technical ordinances designated as such by the council. The council may omit from the code designated classes of ordinances of limited interest or transitory nature, but the code should clearly describe the classes of ordinances omitted therefrom.

(b) The council may provide that one or more of the following classes of ordinances shall be codified by appropriate entries upon official map books to be retained permanently in the office of the city clerk or some other city office generally accessible to the public:

- (1) Establishing or amending the boundaries of zoning districts;
- (2) Designating the location of traffic control devices;
- (3) Designating areas or zones where regulations are applied to parking, loading, bus stops, or taxicab stands;
- (4) Establishing speed limits;
- (4a) Restricting or regulating traffic at certain times on certain streets, or to certain types, weights or sizes of vehicles;
- (5) Designating the location of through streets, stop intersections, yield-right-of-way intersections, waiting lanes, one-way streets, or truck traffic routes;
- (6) Establishing regulations upon vehicle turns at designated locations.

(b1) The council may provide that the classes of ordinances described in paragraphs (2) through (6) of subsection (b) above, and ordinances establishing rates for utility or other public enterprise services, or ordinances establishing fees of any nature, shall be codified by entry upon official lists or schedules of the regulations established by such ordinances, or schedules of such rates or fees, to be maintained in the office of the city clerk.

(c) It is the intent of this section to make uniform the law concerning the adoption of city codes. To this end, all charter provisions in conflict with this section in effect as of January 1, 1972, are expressly repealed, except to the extent that the charter makes adoption of a code mandatory, and no local act taking effect on or after January 1, 1972, shall be construed to repeal or amend this section in whole or in part unless it shall expressly so provide by specific reference.

## **F. Pleading and Proving Ordinances**

### **§ 160A-79. *Pleading and proving city ordinances***

(a) In all civil and criminal cases a city ordinance that has been codified in a code of ordinances adopted and issued in compliance with G.S. 160A-77 must be pleaded by both section number and caption. In all civil and criminal cases a city ordinance that has not been codified in a code of ordinances adopted and issued in compliance with G.S. 160A-77 must be pleaded by its caption. In both instances, it is not necessary to plead or allege the substance or effect of the ordinance unless the ordinance has no caption and has not been codified.

(b) Any of the following shall be admitted in evidence in all actions or proceedings before courts or administrative bodies and shall have the same force and effect as would an original ordinance:

(1) A city code adopted and issued in compliance with G.S. 160A-77, containing a statement that the code is published by order of the council.

(2) Copies of any part of an official map book maintained in accordance with G.S. 160A-77 and certified under seal by the city clerk as having been adopted by the council and maintained in accordance with its directions (the clerk's certificate need not be authenticated).

(3) A copy of an ordinance as set out in the minutes, code, or ordinance book of the council, certified under seal by the city clerk as a true copy (the clerk's certificate need not be authenticated).

(4) Copies of any official lists or schedules maintained in accordance with G.S. 160A-77 and certified under seal by the city clerk as having been adopted by the council and maintained in accordance with its directions (the clerk's certificate need not be authenticated).

(c) The burden of pleading and proving the existence of any modification or repeal of an ordinance, map, or code, a copy of which has been duly pleaded or admitted in evidence in accordance with this section, shall be upon the party asserting such modification or repeal. It shall be presumed that any portion of a city code that is admitted in evidence in accordance with this section has been codified in compliance with G.S. 160A-77, and the burden of pleading and proving to the contrary shall be upon the party seeking to obtain an advantage thereby.

(d) From and after the respective effective dates of G.S. 160A-77 and 160A-78, no city ordinance shall be enforced or admitted into evidence in any court unless it has been codified or filed and indexed in accordance with G.S. 160A-77 or 160A-78. It shall be presumed that an ordinance which has been properly pleaded and proved in accordance with this section has been codified or filed and indexed in accordance with G.S. 160A-77 or 160A-78, and the burden of pleading and proving to the contrary shall be upon the party seeking to obtain an advantage thereby.

(e) It is the intent of this section to make uniform the law concerning the pleading and proving of city ordinances. To this end, all charter provisions in conflict with this section in effect as of January 1, 1972, are expressly repealed, and no local act taking effect on or after January 1, 1972, shall be construed to repeal or amend this section in whole or in part unless it shall expressly so provide by specific reference.

## **V. Public Hearings and Public Comment Periods**

### **A. Public Hearings**

#### ***§ 160A-81. Conduct of public hearings***

Public hearings may be held at any place within the city or within the county in which the city is located. The council may adopt reasonable rules governing the conduct of public hearings, including but not limited to rules (i) fixing the maximum time allotted to each speaker, (ii) providing for the designation of spokesmen for groups of persons supporting or opposing the same positions, (iii) providing for the selection of delegates from groups of persons supporting or opposing the same positions when the number of persons wishing to attend the hearing exceeds the capacity of the hall, and (iv) providing for the maintenance of order and decorum in the conduct of the hearing.

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

## **B. Public Comment Period**

### ***§ 160A-81.1. Public comment period during regular meetings***

The council shall provide at least one period for public comment per month at a regular meeting of the council. The council may adopt reasonable rules governing the conduct of the public comment period, including but not limited to, rules (i) fixing the maximum time allotted to each speaker, (ii) providing for the designation of spokesmen for groups of persons supporting or opposing the same positions, (iii) providing for the selection of delegates from groups of persons supporting or opposing the same positions when the number of persons wishing to attend the hearing exceeds the capacity of the hall, and (iv) providing for the maintenance of order and decorum in the conduct of the hearing. The council is not required to provide a public comment period under this section if no regular meeting is held during the month.

**The foregoing presentation was developed by  
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