THE CITY OF ASHEVILLE

STAFF REPORT

City Council Meeting: August 25, 2020

Subject: Update City Council Rules of Procedure to Comply with new N.C.G.S Chapter 160D and Miscellaneous Updates and "Clean up" Changes

Staff Resources: Brad Branham, City Attorney; Jannice Ashley, Senior Assistant City Attorney; Aarin Miles, Assistant City Attorney

Action Requested: Adopt Resolution amending the Rules of Procedure of the Asheville City Council to comply with a North Carolina Session Law 2019-111, Part I, commonly referred to as "160D" and Part II, and to incorporate several updates.

Background:

- A collaborative effort between North Carolina land use attorneys, the University of North Carolina - School of Government and North Carolina legislators resulted in Session Law 2019-111 "AN ACT TO CLARIFY, CONSOLIDATE, AND REORGANIZE THE LAND-USE REGULATORY LAWS OF THE STATE." adopted July 11, 2019.
- As the law's title states, the purpose of 160D is to clarify and reorganize the land use/development related laws of the State and to consolidate these laws into one chapter to provide a uniform set of statutes applicable to both cities and counties.
- SL 2019-111 Part II also made some changes to other statutes that were indirectly related to land use law (i.e. 160A-75 Voting).
- The new law contains a number of legislative changes which a local government ***must*** take action to adopt, but it also contains permissive legislative changes which a local government ***may*** choose to adopt or not.
- Originally, parts of 160D became effective immediately while most of it was not to become effective until January 1, 2021. However, on June 19, 2020, the General Assembly enacted legislation -S.L. 2020-25-making Chapter 160D and associated changes to other statutes effective immediately.
- The law provided flexibility to local governments in the timing for adoption of amendments to conform local development regulations to the new statutes. Local governments may enact their amendments now, but are not required to do so until July 1, 2021.
- The proposed amendments to the Rules of Procedure contain two revisions that are required by the new law.
    - 1) Local government governing and advisory boards that vote on land use and development regulations, must adopt broadened conflict of interest standards. (G.S. 160D-109). 160D-109(a) states: "*A governing board member shall not vote on any legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have* ***a direct, substantial, and readily identifiable financial impact*** *on the member. A governing board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment* ***is a person with whom the member has a close familial relationship, business, or other associational relationship.***"[emphasis added] The latter part of this requirement is new, in that a conflict of interest can exist even if there is no direct financial impact, which has been the standard to this point. City Council Rule 22. VOTING, has been amended to reflect this new conflict of interest standard.
    - 2) Must permit adoption of a legislative decision for development regulation on first reading by simple majority; no need for two-thirds majority on first readings as was

previously required under 160A-75 Voting. This is a welcome change and will allow for a more expedited decision-making process for planning approvals. City Council Rule 23. ADOPTION OF ORDINANCES AND RESOLUTIONS, has been amended to reflect this statutory change.

- Additional, non-statutory related amendments to the Council Rules of Procedure have also been made in order to modernize and more clearly reflect current procedures.

Council Goal(s):

- A Well-Planned & Livable Community

Pro(s):

- Proposed changes will align the city's development standards, practices and procedures with current North Carolina state law.
- Modernizes outdated language.
- Creates objective standards for ministerial decisions.
- Clarifies practices and procedures for the development community.
- Updates written rules to coincide with current Council procedures

Con(s):

- This is a legislative mandate and while some proposed changes reduce flexibility and/or discretion, it is necessary to revise these practices to be consistent with state law.

Fiscal Impact:

- None

Suggested Motion:

- Move to approve the amendments to the City Council Rules of Procedure.

Attachment(s)

- Resolution
- Amended City Council Rules of Procedure

RESOLUTION NO. 20-_____

RESOLUTION AMENDING THE RULES OF PROCEDURE OF THE ASHEVILLE CITY COUNCIL

WHEREAS, the Asheville City Council is authorized pursuant to N.C.G.S. 160A-71, 160A-81, and 160A-81.1 to adopt and amend rules of procedure; and

WHEREAS, newly adopted legislation North Carolina Session Law 2019-111, Part I, commonly referred to as "160D" and Part II enacted on June 19, 2020 requires changes to the Council's rules in regard to conflict of interest standards (G.S. 160D-109(a)) and in regard to the voting procedures for planning and development related ordinances (G.S. 160A-75); and

WHEREAS, the City Council has determined it is in the public interest to amend its Rules of Procedure in order to reflect these new statutory requirements and also to generally modernize and update existing procedures;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT:

The Rules of Procedure of the Asheville City Council are hereby amended as set forth in Exhibit A, attached hereto.

Read, approved and adopted this 25th day of August, 2020.

_____ _____

City Clerk Mayor

Approved as to form:

_____

City Attorney

RULES OF PROCEDURE FOR CITY COUNCIL

1. MEETING TIMES. Pursuant to N.C.G.S. 160A-71, the ~~City~~ city ~~Council~~ council shall establish its regular meeting schedule by resolution, which schedule may be amended from time to time. A copy of the regular meeting schedule shall be filed with the City Clerk as provided in N.C.G.S. 143-318.12, and otherwise as required by law, and shall be attached to these Rules as an Appendix. Regular meetings may be designated as "formal meetings" or "worksessions."

The primary purpose of worksessions, whether they precede the formal meetings or are conducted solely as worksessions, is to inform the council of matters over which the council has concern, including upcoming agenda items. The focus of the worksessions will be receiving reports from the staff and other professionals reporting to the council; meeting with representatives of other governmental bodies, including boards and commissions appointed by the council; and receiving such additional information as the council may deem appropriate in carrying out its duties.

Formal action in the form of ordinances and resolutions will ordinarily not be taken at worksessions; however, council may provide direction as to those matters coming before it t worksessions. Because of the nature of worksessions, and because opportunities for public comment will be provided for any item when said item is scheduled for action by the council, public comment will not ordinarily be taken at worksessions.

Notwithstanding the foregoing, worksessions are regular meetings of the council, and council is not precluded from suspending its rules and taking action when it is necessary or expedient to do so. In such event and to the extent practical, the possibility that council will take action on an item will be noted on the published worksession agenda, and public comment as to that item will be received. The council may in any case suspend the rules to allow public comment as to any item under consideration at a worksession. If public comment is allowed at a worksession, the rules governing public comment, including Rules 7 and 7.5, will apply.

2. SPECIAL, EMERGENCY, AND ADJOURNED [or RECESSED] MEETINGS

(a) Special Meetings. The mayor, the vice 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. At least 48 hours before a special meeting called in this manner, written notice of the meeting stating its time and place and the subjects to be considered shall be (a) delivered to the mayor and each council member or left at his or her usual dwelling place;

(b) posted on the council's principal bulletin board, or if none, at the door of the council's usual meeting room; and (c) mailed or delivered to each newspaper, wire service, radio station, television station, and person who has filed a written request for notice with the city clerk. Only

those items of business specified in the notice may be transacted at a special meeting called in this manner, unless all members are present or have signed a written waiver of notice.

A special meeting may also be called or scheduled by vote of the council in open session during another duly called meeting. The motion or resolution calling or scheduling the special meeting shall specify its time, place, and purpose. At least 48 hours before a special meeting called in this manner, notice of the time, place, and purpose of the meeting shall be (a) posted on the council's principal bulletin board, or if none, at the door of the council's usual meeting room; and (b) mailed or delivered to each newspaper, wire service, radio station, television station, and person who has filed a written request for notice with the city clerk. [Such notice shall also be mailed or delivered at least 48 hours before the meeting to each council member not present at the meeting at which the special meeting was called or scheduled, and to the mayor if he or she was not present at that meeting.]

(b) Emergency Meetings. The mayor, the vice mayor ~~pro tempore~~, or any two members of the council may at any time call an emergency 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 council member or left at his or her usual dwelling place at least six hours before the meeting. Notice of the meeting shall be given to each local newspaper, local wire service, local radio station, and local television station that has filed a written emergency meeting notice request, which includes the newspaper's, wire service's, or station's telephone number, with the city clerk. This notice shall be given either by telephone or by the same method used to notify the mayor and the council 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 city council. Only business connected with the emergency may be considered at an emergency meeting.

(c) Adjourned [or Recessed] Meetings. A properly called regular, special, or emergency meeting may be adjourned [or recessed] by a procedural motion made and adopted as provided in Rule 19 in open session during the regular, special or emergency meeting. The motion shall state the time and place when the meeting will reconvene. No further notice need be given of an adjourned [or recessed] session of a properly called regular, special, or emergency meeting.

3. ORGANIZATIONAL MEETING. On the date and at the time of the first regular meeting in December following a general election in which council members are elected, or at an earlier date, if any, set by the incumbent council, the newly elected members shall take and subscribe the oath of office as the first order of business. As the second order of business, the council shall elect a vice mayor to act as mayor pro tem in the absence of the mayor. This organizational meeting shall not be held before the municipal election results are officially determined, certified, and published.

4. AGENDA.

(a) The city clerk shall prepare the agenda for each meeting as directed by the mayor and the city manager. Any council member may have an item placed on the agenda so long as the request is timely and is consistent with the notice requirements of Rule 2, if applicable, and subject to other requirements set out in these rules. A copy of all proposed ordinances shall be attached to the agenda.

(a1) ~~Any~~ Three or more council members may request ~~wishing~~ to have an item placed on the agenda ~~shall~~ by making a written request for the addition to the Mayor and the City Manager, or may complete the "Agenda Item Request Form" in the appendix and submit the form to the city clerk. The mayor may direct the item to be placed on the agenda for the next available council meeting or may direct that the item be submitted to one or more council committees. Items that have been reviewed by a council committee shall be placed on the agenda for the next available council meeting. If three or more council members request that an item be placed on council's agenda without first going to a council committee, said item shall be placed on the agenda for the next available council meeting. Nothing herein shall limit council's ability to add items to the agenda pursuant to paragraph (c) below.

(b) An agenda package shall be prepared that includes, for each item of business placed on the agenda, as much background information on the subject as is available and feasible to reproduce. In order to facilitate preparation of the agenda package, written materials (including display materials) that will be used in presenting an agenda item, including presentations by ~~Council~~ council members, shall be provided to the city clerk no later than eight calendar days prior to the day of the meeting at which the item is scheduled. For example, information to be considered at a meeting scheduled for the third Tuesday should be submitted to the city clerk not later than 5:00 p.m. on the Monday preceding the second Tuesday. The preceding sentence does not apply to items originating with the city manager or city attorney, or that were considered by the council at

a preceding worksession, and scheduled for a formal meeting at the direction of council. For good cause, the submission deadlines set out herein may be modified with the consent of the mayor. Each council member shall receive a copy of the agenda and the agenda package, and they shall be available for public inspection and distribution or copying when they are distributed to the council members.

(c) The council may by majority vote add items to or subtract items from the agenda, except that (i) the council may not add items to the agenda stated in the notice of a special meeting called by the mayor, vice mayor ~~pro tempore~~, or two council members, unless all members are present, or those who are absent sign a written waiver of notice, and (ii) only business connected with the emergency may be considered at an emergency meeting.

(d) The council shall not deliberate, vote, or otherwise take action on any matter by reference to a letter, number or other designation, or other secret device of method, with the intention of making it impossible for person attending a meeting of the council to understand what is being deliberated, voted, or acted on. The council may, however, deliberate, vote, or otherwise take 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 on are available for public inspection at the meeting.

5. CONSENT AGENDA. The consent agenda shall contain routine, non-controversial items that require city council action but need little or no deliberation.

The consent agenda shall be given to the city council members prior to each regularly scheduled meeting and shall be comprised of, but not limited to, the following item:

(a) Awarding of bids;

(b) Authorization for the city attorney, city clerk and/or the city manager to perform specific tasks, draft ordinances and/or resolutions, etc.;

(c) Setting public hearing dates and authorizing the advertisement of ordinances;

(d) Appointments to boards and commissions;

(e) Approval of leases and contracts;

(f) Approval of minutes.

The consent agenda shall be placed on the city council agenda as an item of general business.

A motion to approve the consent agenda shall not be debated or discussed. At the request of any individual member of the city council, a citizen and/or a member of the city staff, an item shall be removed from the consent agenda and placed upon the regular agenda for discussion.

The consent agenda shall only be adopted by a unanimous vote of those council members present at the meeting.

6. BROADCASTING OR RECORDING MEETINGS. Any radio or television station is entitled to broadcast all or any part of a council meeting. Any person may photograph, film, tape record or otherwise reproduce any part of the meeting.

The equipment necessary for broadcasting, photographing, filming or recording shall be placed and/or displaced, so as to prevent undue interference with the meeting, particularly while a citizen, a member of council and/or the city staff is making a presentation.

7. PUBLIC ADDRESS TO THE COUNCIL. Citizens desiring to address the council shall be given the opportunity to do so as follows:

(a) Any individual or group who wishes to address the council may make a request to be on the agenda to the city clerk. The mayor and city manager shall determine when preparing the agenda for the meeting whether the matter will be placed on the agenda.

1. Subject to the time limitations set forth in paragraph (c), below, the public shall be allowed to comment on non-procedural matters under consideration by the council prior to a final vote on the matter by the council. Public comment shall generally be taken regarding such matters under consideration by the council during the formal meetings of the council as referenced in Rule ¶

~~2.~~ Public comment will not be taken during the "worksession" discussions of the council except in those instances where a final vote of the council is being taken during a worksession. In such instances, public comment shall be allowed in accordance with the time limits set forth hereinafter.

(b) Any person addressing the council shall be limited to a three minute

presentation except that any group of at least four persons making a presentation to the council may have a single spokesperson who will be allowed ten minutes to address the council, formal organizations such as neighborhood associations and public interest groups are encouraged to designate a single spokesperson to present that organization's position. No person who identifies himself or herself as a member of a group will be permitted to address the Council as an individual on the same agenda item. The council will receive written information from any individuals or groups that cannot conclude their presentations within these time limitations.

(c) During at least one~~At each~~ "regular" meeting of the ~~Council~~council each month, under the "Informal discussion and public comment" section of the agenda, any group or person wishing to address the ~~Council~~ council on any matter not previously considered during the meeting may do so. For matters coming before ~~Council~~ council pursuant to this paragraph, and with respect to which the ~~Council~~ council may not act, the following limitations apply:

(i) No more than three persons (one at a time) may address the ~~Council~~council, and no person may take longer than three minutes to complete a presentation.

(ii) In lieu of the limitation set forth in (i) above, a group of at least four persons may elect to designate a spokesperson who may take no longer than ten minutes to complete a presentation.

As used herein, "presentation" means all forms of address, including speaking, use of audio or video materials, and distribution of literature. For presentations that cannot be completed within the limitations of this paragraph, written comments or other information may be delivered to the ~~Council~~ council through the City Clerk.

(d) Persons addressing the ~~Council~~ council are expected to observe the decorum of the ~~Chamber~~chamber, to be respectful of the ~~Council~~ council and the public, to refrain from the use of profanity or foul language, to refrain from personal attacks and commentary on candidates for political office, and to refrain from making disclosures prohibited by the Personnel Privacy Act with respect to any City employee.

(e) The mayor shall be authorized to allow additional comments and time for comments as he or she may deem appropriate for the orderly conduct of business.

(f) Pursuant to Rule 9(b), the mayor may rule out of order any comments made under this part of the agenda if such comments are unruly or repetitive of information previously received by council on the same subject at the meeting then in session or at previous meetings. The mayor may also rule out of order any comments made during this part of the agenda that are rude, inappropriate, or intended to harass any person or group of people, and is authorized to take reasonable and appropriate measures to ensure compliance with these rules.

7.5 SUPPLEMENTAL RULES AND PROCEDURES FOR PUBLIC HEARINGS AND PUBLIC COMMENT. The time limit applicable to public hearings or public comment periods on any agenda item shall be one hour. This time limit shall be exclusive of staff presentations and any structured ~~Council~~ council debate. This time limit may be shortened or extended by the mayor, with the concurrence of ~~Council~~council.

(a) In addition to the rules set forth in Rule 7 and herein, the mayor may, in consultation with the City Attorney and with the concurrence of ~~Council~~council, establish supplemental rules and procedures applicable to particular public hearings or public comment periods in order to facilitate the receipt of relevant information by ~~Council~~council, while affording appropriate due process. Without limitation, such rules and procedures may include:

(i) The order of presentation;
(ii) The length of individual or group presentations;
(iii) Recognition of a primary spokesperson or representative to provide information or respond to a particular question;
(iv) The maximum time allotted for the public hearing;
(v) Relevance of information and repetition of information previously received;
(vi) Determining when new information has been presented; and
(vii) Requiring speakers to sign up in advance.

(b) The mayor may, with the concurrence of ~~Council~~council, determine when sufficient information has been presented at any public hearing or public comment period, and is ready for action by ~~Council~~council.

(c) Any documentary information that is to be used in a public hearing or public comment period shall be furnished in advance to the City Clerk in electronic format or 15 copies thereof. This rule may be waived for good cause.

(d) In order to facilitate the efficient use of time, citizens are encouraged to coordinate their presentations with others who have similar positions, and to designate a spokesperson, where practicable, to speak for the group.

(e) In the absence of the mayor, and subject to compliance with N.C.G.S. 160A-70, the vice -mayor or temporary chairman shall be authorized to administer the provisions of this rule and Rule 7.

8. ORDER OF BUSINESS. Items shall be placed on the agenda according to the Order of Business. The Order of Business at each regular meeting shall be as follows:

Proclamation
~~Presentations and Reports~~
Consent Agenda
Presentations and Reports¶
Public Hearings
Unfinished Business
New Business
Informal Discussion and Public Comment

By general consent of the council, items may be considered out of order.

9. OFFICE OF MAYOR. The mayor, in addition to the other powers conferred on him or her by city charter, shall have the rights, privileges, requirements and immunities of a member of the council.

The mayor shall preside at all meetings of the council and shall vote in all cases. In order to address the council, a member must be recognized by the mayor.

The mayor shall have the following powers:

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

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

(c) To entertain and answer questions of parliamentary law or procedure;

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

(e) To adjourn in an emergency.

10. OFFICE OF VICE MAYOR ~~PRO TEM~~. At the organizational meeting, the council shall elect from among its members a vice mayor ~~mayor pro tem~~ to serve in the absence of the mayor. A council member who serves as vice mayor ~~pro tem~~ shall vote on all matters. In the mayor's absence, the council may confer on the vice mayor ~~pro tem~~ any of the mayor's powers and duties. If the mayor should become physically or mentally unable to perform the duties of his or her office, the council may by unanimous vote declare that the mayor is incapacitated and confer any of the mayor's powers and duties on the vice mayor ~~pro tem~~. When a mayor declares that he or she is no longer incapacitated, and a majority of the council ~~concerns~~consents, the mayor shall resume the exercise of his or her powers and duties. If both the mayor and the vice mayor ~~pro tem~~ are absent from a meeting, the council may elect from among its members a temporary chairman to preside at the meeting.

11. PRESIDING OFFICER WHEN THE MAYOR IS IN ACTIVE DEBATE. Should the mayor become actively engaged in debate on a particular proposal, he or she may designate another council member to preside over the debate. When this occurs, the vice mayor shall be designated as the presiding officer unless he or she is also engaged in active debate, in which case the mayor may call upon another member of the council to preside. The mayor shall resume presiding as soon as action on the matter is concluded.

12. ACTION BY THE COUNCIL. The council shall proceed by motion. Any member may make a motion.

13. SECOND REQUIRED. A motion shall require a second prior to a vote being taken upon the motion.

14. ONE MOTION AT A TIME. A member may make only one motion at a time.

15. SUBSTANTIVE MOTIONS. A substantive motion is out of order while another substantive motion is pending.

16. ADOPTION BY MAJORITY VOTE. Unless otherwise directed by applicable law or these rules, ~~T~~the affirmative vote of a majority of all members of council (four votes) shall be necessary to adopt any ordinance, resolution or vote. ~~except that a~~A vote to adjourn, to adopt or amend the budget, to go into closed session, or regarding the attendance of absent members may be adopted by a majority of the members present. Adoption of some ordinances may require a greater than majority vote-see Rule 23.

17. DEBATE. The mayor shall state the motion and then open the floor to debate on

it. The mayor shall preside over the debate according to the following general principles:

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

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

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

18. RATIFICATION OF ACTIONS. To the extent permitted by law, the council may ratify actions taken on its behalf but without its prior approval. A motion to ratify is a substantive motion.

19. PROCEDURAL MOTIONS. In addition to substantive proposals, the following procedural motions, and no other, shall be in order. Unless otherwise noted, each motion is debatable and may be amended.

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

(a) To Adjourn. The motion may be made only at the conclusion of action on a pending substantive matter; it cannot interrupt deliberation of a pending matter. A motion to adjourn (or recess) to a time and place certain shall also comply with the requirements of Rule 2(c).

(b) To Take a Brief Recess.

(c) Call to Follow the Agenda. The motion must be made at the first reasonable opportunity, or the right to make it is waived for the out-of-order item in question.

(d) To Suspend the Rules. The motion requires for adoption a vote equal to two-thirds of the actual membership of the council, including the mayor, but excluding vacant seats. For a full council of seven (7) members, five (5) votes are required. The council may not suspend provisions of the rules that state requirements imposed by law on the council.

(e) To Divide a Complex Motion and Consider It by Paragraph.

(f) To Defer Consideration. A substantive motion the consideration of which has been deferred expires after 100 days have elapsed

following the day of deferral unless a motion to revive consideration is adopted.

(g) Call of the Previous Question. The motion is not in order until there have been at least 20 minutes of debate, and every member has had an opportunity to speak once.

(h) To Postpone (or Continue) a Matter to a Certain Time or Day.

(i) To Refer to a Committee. Sixty days or more after a motion has been referred to a committee, the introducer may compel consideration of the measure by the entire council, whether or not the committee has reported the matter to the council.

(j) To Amend. An amendment to a motion must be pertinent to the subject matter of the motion. An amendment is improper if adoption of the amended motion has the same effect as rejection of the original motion.

A motion may be amended, and that amendment may be amended, but no further amendments may be made until the last-offered amendment is disposed of by a vote.

(k) To Revive Consideration. The motion is in order at any time within the 100 days after the day of a vote to defer consideration. A substantive motion on which consideration has been deferred expires after 100 days have elapsed following the deferral unless a motion to revive consideration is adopted.

(l) To Reconsider. The motion must be made by a member who voted with the prevailing side, and only at the meeting during which the original vote was taken, including any continuation of that meeting through adjournment [or recess] to a time and place certain or at the next succeeding meeting. The motion cannot interrupt deliberation on a pending matter, but is in order at any time before final adjournment of the meeting.

(m) To Rescind or Repeal. The motion is not in order if rescission or repeal of an action is forbidden by law.

(n) To Prevent Reconsideration for Six Months. The motion is in order immediately following the defeat of a substantive motion and at no other time. The motion requires for adoption a vote equal to two-thirds of the actual membership of the council, excluding ~~the mayor, unless he or she~~

~~may vote in all cases, and~~ vacant seats. If adopted, the restriction imposed by the motion remains in effect for six months or until the next organizational meeting of the council, whichever occurs first.

20. RENEWAL OF MOTION. A motion that is defeated may be renewed at any later meeting unless a motion to prevent reconsideration has been adopted or unless reconsideration is prohibited for a specified period of time by some other provision of law such as the provisions of the zoning ordinance prohibiting reconsideration of a rezoning request for a period of one year following a denial.

21. WITHDRAWAL OF MOTION. A motion may be withdrawn by the introducer at any time before a vote.

22. VOTING. Every member must vote unless excused by the remaining members according to law. A member who wishes to be excused from voting shall so inform the mayor, 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, or on any legislative decision regarding a development regulation adopted pursuant to G.S. 160D which is likely to have a *direct, substantial and readily identifiable financial impact* on the member or on any zoning amendment if the landowner of the property subject to the rezoning or the applicant for an amendment is *a person with whom the member has a close familial, business or other associational relationship*. In all other cases, 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.

All votes of council shall be conducted in such fashion as to allow the minutes to reflect the vote of each council member. When a roll call vote is taken the order of voting shall be alphabetical by last name of the council members, except for the mayor, who shall vote last.

23. ADOPTION OF ORDINANCES AND RESOLUTIONS. All ordinances and resolutions shall be introduced in the council only in written or printed form. All ordinances, except those relating to appropriations and/or budgets or codifying existing ordinances shall be confined to one subject and the subject shall be expressed in the title. Ordinances related to appropriations shall be confined to that subject. No ordinance may be finally adopted on the date on which it is introduced except by an affirmative vote of at least two-thirds (2/3) of all members of the council, excluding vacant seats. 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. The aforementioned 2/3 majority vote on first vote requirement shall not apply to ordinances regarding a legislative

decision for a development regulation (i.e. rezoning, conditional zoning) which may be adopted on the first reading by a simple majority vote.

Members of the public requesting a copy of any ordinance or resolution under consideration by the city council shall be provided with a copy of the ordinance or resolution without charge. Requests by members of the public for an ordinance or resolution to be read in its entirety in a council meeting shall only be complied with upon a vote of the majority of the council. The person requesting that the ordinance or resolution be read in full shall be provided with a copy of the ordinance or resolution without charge.

24. ADOPTION OF THE BUDGET ORDINANCE. Notwithstanding the provisions of any city charter, general law, or local act:

(a) Any action with respect to the adoption or amendment of the budget ordinance shall require only one reading and may be taken at any regular or special meeting of the council by a simple majority of those present and voting, a quorum being present;

(b) No action taken with respect to the adoption or amendment of the budget ordinance need be published or is subject to any other procedural requirement governing the adoption of ordinances or resolutions by the council; and

(c) The adoption and amendment of the budget 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 council and ending with the adoption of the budget ordinance, the council may hold any special meetings that may be necessary to complete its work on the budget ordinance. Except for the notice requirements of the Open Meetings Law, which continue to apply, no provision of law concerning the call of special meetings applies during that period so long as (a) each member of the board has actual notice of each special meeting called for the purpose of considering the budget, and (b) no business other than consideration of the budget is taken up. This rule does not allow, and may not be construed to allow, the holding of closed meetings or executive sessions by the council if it is otherwise prohibited by law from holding such a meeting or session.

The budget shall be presented to the council by June 1 of each year. Prior to adoption of the budget ordinance, the council shall conduct a public hearing for the purpose of receiving public comment upon the proposed budget. Notice of the public hearing shall be published one time at least ten days before the date of the public hearing. The budget ordinance shall require only one reading.

25. CLOSED SESSIONS. The council may hold closed sessions as provided by law. The council shall only commence a closed session after a motion to go into closed session has been made and adopted during an open meeting. The motion shall state the general purpose of the closed session and must be approved by the vote of a majority of those present and voting. The council shall terminate the closed session by a majority vote.

Only those actions specifically authorized by statute may be taken in closed session. A motion to adjourn or recess shall not be in order during a closed session.

26. 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.

27. PUBLIC HEARINGS. Public hearings required by law or deemed advisable by the council shall be organized by a special order, adopted by a majority vote, that sets forth the subject, date, place, and time of the hearing as well as any rules regarding the length of time for each speaker, and other pertinent matters. The rules may include, but are not limited to, rules (a) fixing the maximum time allotted to each speaker; (b) providing for the designation of spokespersons for groups of persons supporting or opposing the same positions; (c) 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 (so long as arrangements are made for those excluded from the hall to listen to the hearing); and (d) providing for the maintenance of order and decorum in the conduct of the hearing. Unless different rules are established by the council for the conduct of a public hearing, the time restrictions set forth in Rule 7 regarding public address to the council shall apply.

All notice and other requirements of the Open Meetings Law applicable to council meetings shall also apply to public hearings at which a majority of the council is present. A public hearing for which any notices required by the Open Meetings Law or other provisions of law have been given may be continued to a time and place certain without further advertisement. The requirements of Rule 2(c) shall be followed in continuing a hearing at which a majority of the council is present.

At the time appointed for the hearing, the mayor or his or her designee shall call the hearing to order and then preside over it. When the allotted time expires or when no one wishes to speak who has not done so, the presiding officer shall declare the hearing ended.

28. QUORUM AT PUBLIC HEARINGS. A quorum of the council shall be required at all public hearings required by state law. If a quorum is not present at such a hearing, the hearing shall be continued until the next regular council meeting without further advertisement.

29. MINUTES. Full and accurate minutes of the council proceedings shall be kept and shall be open to the inspection of the public, except as otherwise provided in this rule. The results of each vote shall be recorded in the minutes, and on the request of any member of the council, the "aye"s and "no"s upon any question shall be taken.

Full and accurate minutes shall be kept of all actions taken during ~~executive~~ closed sessions. Minutes and other records of a~~n~~ closed ~~executive~~ session may be withheld from public inspection so long as public inspection would frustrate the purpose of the ~~executive~~ closed session.

The city clerk shall endeavor to make ~~tape~~ recordings of all regular meetings of the council, excluding worksessions. ~~Tape r~~Recordings shall be retrained by the city clerk of a period of one year. Anyone wishing a copy of a verbatim transcript or portion thereof of a council meeting shall make a written request to the city clerk and shall pay a fee as established in the Fees and Charges Manual adopted by the city council.

30. APPOINTMENTS. All appointments made by the council shall be made in open session. The council or a committee of the council may consider (but not make) an appointment to another body in ~~executive~~ closed session, if it follows the requirements set out in the following paragraph. The council may not consider or fill a vacancy among its own membership except in an open meeting.

If the council or a committee of the council considers an appointment to another body in ~~executive~~ closed session, the council shall, prior to making the appointment, present at an open meeting a written list of the persons then being considered for the appointment, and on the same day shall make the list available for public inspection in the office of the city clerk. The council shall not make the appointment in such a case before the seventh day after the day on which the list was presented.

The council shall use the following procedure to make appointments to various subordinate boards or offices: The mayor shall open the floor for nominations, whereupon the names of possible appointees may be put forward by the council members. No second shall be required for nominations. The names submitted shall

then be debated. When the debate ends, the mayor shall call the roll of the members, and each member shall cast his or her vote. The voting shall continue until one nominee receives a majority of the votes cast, whereupon he or she shall be appointed. If more than one appointee is to be selected, then each member shall have as many votes in each balloting as there are slots to be filled, and votes from a majority of the members voting shall be required for appointment. During each balloting, a member may cast all of his or her votes or fewer than all of them, but he or she shall not cast more than one vote for a single candidate.

31. COMMITTEES AND BOARDS. The council or the mayor, as appropriate, may establish and appoint members for such temporary and standing committees and boards as are needed to help carry on the work of city government. Any specific provisions of law relating to particular committees and boards shall be followed.

The requirements of the Open Meetings Law shall apply to all committees and boards that either (a) are established by the council, or (b) are comprised of council members.

32. REFERENCE TO ROBERT'S RULES OF ORDER. To the extent not provided for in these rules, and to the extent it does not conflict with North Carolina law or with the spirit of these rules, the council shall refer to Robert's Rules of Order, Revised, to answer unresolved procedural questions.

33. SIGNS IN COUNCIL CHAMBERS. Signs, banners, placards, pennants and related items shall not be displayed in the city council chamber during city council meetings. Provided, however, that this provision shall not limit the use of such visual aids during a presentation made in the due course of business.

34. PUBLIC DECORUM IN COUNCIL CHAMBERS. Members of the public who are present during council meetings shall observe the same rules of decorum as those who are addressing the council, and shall abide by the restrictions of Rule 7.4(e). Members of the public shall follow the instructions of the Mayor, or any other presiding officer or official, and shall refrain from impeding or interrupting the conduct of business. This shall include, but not be limited to, clapping, yelling, or other audial expressions of approval or disapproval of comments made during the meeting. Failure to abide by these rules may subject the offender to removal from the council chamber.

35.

36. ASSISTANCE TO THE DISABLED. The city is committed to complying with the 1990 Americans With Disabilities Act, and in that spirit, all persons with disabilities that need auxiliary aid, must contact the city clerk at (828) 259-5601; TDD number (828) 259-5548 at least twenty-four hours prior to the meeting.

37. ~~9.~~