



STAFF REPORT

Agenda Title: Woodfin Town Council - Rules of Procedure

Presenter: Shannon Tuch

Staff contact(s): Shannon Tuch

Meeting Date: August 16, 2022

Summary:

Consideration of formal Rules of Procedure (ROP) for the Woodfin Town Council.

Background:

It is strongly advised that all governing bodies adopt ROP to provide guidance on procedural rules and rules of conduct expected to be followed during public meetings.

Staff Analysis:

A model set of Rules of Procedure are produced by the University of North Carolina School of Government and is the template used for the draft ROP proposed. Minor amendments to certain sections are offered for simplicity and to accommodate new opportunities for emergency meetings.

Review by Others:

N/A

Process and Timeline

N/A

Budget Impact:

N/A

Staff Recommendation:

Staff recommends adoption of the Rules as proposed.

Suggested Motion:

I move to approve the Town of Woodfin Town Council Rules of Procedure as proposed.

Attachments:

- 1) Draft Rules of Procedure



Town of Woodfin Town Council Rules of Procedure

(Adopted _____, 2022)

Rule 1. Regular Meetings

At its organizational meeting, the Town Council shall fix the time and place of its regular meetings. Its regular meeting schedule may be changed by the Council at any time upon compliance with the notice provisions of the open meetings law. A copy of the Council's current meeting schedule shall be filed with the town clerk.

Rule 2. Special, Emergency and Recessed Meetings

- (a) **Special Meetings.** Upon compliance with the notice provisions of the open meetings law, the mayor, the vice mayor, or a majority of the 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 forty-eight 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:

- 1) delivered to the mayor and each council member or left at his or her usual dwelling place;
- 2) posted on the council's principal bulletin board, or if none, at the door of the council's usual meeting room; and
- 3) mailed or delivered to each newspaper, wire service, radio station, television station, and person who has filed a written request for notice with the town 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. Even in such a case, the council shall only discuss or transact items of business not specified in the notice if it determines in good faith at the meeting that it is essential to discuss or act on the item immediately.

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 forty-eight hours before a special meeting called in this manner, notice of the time, place, and purpose of the meeting shall be:

- 1) posted on the council's principal bulletin board, or if none, at the door of the council's usual meeting room; and
- 2) 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 forty-eight 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. Only those items of business specified in the notice may be discussed or transacted at a special meeting called in this manner, unless all members are present or those not present have signed a written waiver of notice, and the council determines in good faith at the meeting that it is essential to discuss or act on the item immediately.

- (b) **Emergency Meetings.** Emergency meetings of the town council may be called only because of generally unexpected circumstances that require immediate consideration by the council. Only business connected with the emergency may be considered at an emergency meeting. One of the following two procedures must be followed to call an emergency meeting of the council:
- 1) the mayor, the vice mayor, 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.
 - 2) an emergency meeting 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, but only in either case if the council complies with the notice provisions of the next paragraph.

Notice of an emergency meeting under (1) or (2) above shall be given to each local newspaper and local radio station that has filed a written emergency meeting notice request, which includes the newspaper's or station's telephone number, with the town clerk. This notice shall be given either by telephone or by the same method used to notify the mayor and council members and shall be given at the expense of the party notified.

- (c) **Recessed Meetings.** A properly called regular, special or emergency meeting may be recessed to a time and place certain by a procedural motion made and adopted as provided in Rule 18, Motion 2, 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 a recessed session of a properly called regular, special or emergency meeting.

Rule 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 new business. As the second order of new business, the council shall elect a vice mayor. This organizational meeting shall not be held before the municipal election results are officially determined, certified and published in accordance with Subchapter IX of Chapter 163 of the North Carolina General Statutes.

Rule 4. Agenda

- (a) **Proposed Agenda.** The town manager shall prepare a proposed agenda for each meeting. A request to have an item of business placed on the agenda must be received at least seven working days before the meeting. Any two council members may, by a timely request, have an item placed on the proposed agenda. A copy of all proposed ordinances shall be attached to the proposed agenda. An agenda package shall be prepared that includes, for each item of business placed on the proposed agenda, as much background information on the subject as is available and feasible to reproduce. Each council member shall receive a copy of the proposed agenda and the agenda package and it shall be available for public inspection and distribution or copying when it is distributed to the council members.
- (b) **Adoption of the Agenda.** As its first order of business at each meeting, the council shall, as specified in Rule 6, discuss and revise the proposed agenda and adopt an agenda for the meeting. If items are proposed to be added to the agenda of a meeting, the council may, by majority vote, require that written copies of particular documents connected with the items be made available at the meeting to all council members. The council may by majority vote add items to or subtract items from the proposed agenda, except that:
- 1) the council may not subtract items from the proposed agenda stated in the notice of a special meeting called by the mayor, vice mayor, or two council members, unless those calling the meeting consent to the deletion;
 - 2) the council may not add items to the proposed agenda stated in the notice of a special meeting called by the mayor, vice mayor, or two council members, unless all members are present, or those who are absent sign a written waiver of notice; and
 - 3) only business connected with the emergency may be considered at an emergency meeting.

The council may add items to the proposed agenda of a special meeting only if it determines in good faith at the meeting that it is essential to discuss or act on the item immediately. The council may designate certain agenda items “for discussion and possible action.” Such designation means that the council intends to discuss the general subject area of that agenda item before making any motion concerning that item.

- (c) **Consent Agenda.** The council may designate a part of the agenda as the “consent agenda.” Items shall be placed on the consent agenda by those preparing the proposed agenda if they are judged to be noncontroversial and routine. Any member may remove an item from the consent agenda and place it on the regular agenda while the agenda is being discussed and revised prior to its adoption at the beginning of the meeting. All items on the consent agenda shall be voted on and adopted by a single motion, with the minutes reflecting the motion and vote on each item.
- (d) **Open Meetings Requirements.** 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 or method, with the intention of making it impossible for persons 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.

Rule 5. Public Address to the Council

The council shall provide at least one public comment period at its regular monthly meeting, as required by N.C.G.S. 160A-81.1 and any subsequent amendments thereto. Speakers shall be bound by the following rules (which may be suspended by majority vote of the council upon motion of any member):

- (a) Any individual or group who wishes to address the council may make a request to be on the agenda to the town clerk. The mayor and city manager shall determine when preparing the agenda for the meeting whether the matter will be placed on the agenda.
- (b) Each speaker shall have a maximum of five (5) minutes to speak. Each speaker representing a group with three or more members in attendance may have up to 10 minutes. Any person in attendance who identifies themselves as a member of the group will cede their speaking time.
- (c) Organized groups who all wish to speak on the same subject are encouraged to designate a spokesperson to speak on behalf of the group.
- (d) The council may select delegates in the event the legal occupancy limits of the town hall are exceeded.
- (e) Speakers shall maintain order and decorum in making comments. 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 and shall be removed by a town police officer.

Rule 6. Order of Business

Items shall be placed on the agenda according to the order of business. The order of business for each regular meeting shall be as follows:

- Call to Order
- Approval of the Agenda
- Consent Agenda
- Public Comment
- Presentations & Reports
- New Business
- Old (unfinished) business
- Executive Session

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

No council meeting shall begin with a moment of silence, invocation, or prayer, and no such moments of silence, invocatiaons, or calls for prayer shall be included in any portion of a council meeting.

Rule 7. Office of the Mayor

If the mayor is not elected as such by the voters, the council shall, at the organizational meeting described in Rule 3, elect one of its members to serve as mayor for a term certain. The mayor shall preside at all meetings of the council but shall have the right to vote only when there is a tie. In order to address the council, a member must be recognized by the mayor.

The mayor or other presiding officer 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; or
- (e) to adjourn in an emergency.

A decision by the presiding officer under (a), (b) or (c) may be appealed to the council upon motion of any member, pursuant to Rule 18(b), Motion 1. Such a motion is in order immediately after a decision under (a), (b) or (c) is announced and at no other time. The member making the motion need not be recognized by the presiding officer, and the motion, if timely, may not be ruled out of order.

Rule 8. Office of the Vice Mayor

At the organizational meeting, the council shall elect from among its members a vice mayor to serve at the council's pleasure. A council member who serves as vice mayor shall be entitled to vote on all matters and shall be considered a council member for all purposes, including the determination of whether a quorum is present. In the mayor's absence, the council may confer on the vice mayor 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. When a mayor declares that he or she is no longer incapacitated, and a majority of the council concurs, the mayor shall resume the exercise of his or her powers and duties. If both the mayor and the vice mayor are absent from a meeting, the council may elect from among its members a temporary chairman to preside at the meeting.

Rule 9. When the Presiding Officer is in Active Debate

If the mayor or other presiding officer becomes actively engaged in debate on a particular proposal, they may designate another council member to preside over the debate. The mayor or other presiding officer shall resume presiding as soon as action on the matter is concluded.

Rule 10. Action by the Council

The council shall proceed by motion, except as otherwise provided for in Rule 4 and in Rule 31. Any member may make a motion.

Rule 11. Second Required

A motion shall require a second.

Rule 12. One Motion at a Time

A member may make only one motion at a time.

Rule 13. Substantive Motions

A substantive motion is out of order while another substantive motion is pending.

Rule 14. Adoption by Majority Vote

A motion shall be adopted by a majority of the votes cast, a quorum as defined in Rule 26 being present, unless otherwise required by these rules or the laws of North Carolina. A majority is more than half.

Rule 15. Voting by Written Ballot

The council may choose by majority vote to use written ballots in voting on a motion. Such ballots shall be signed, and the minutes of the council shall show the vote of each member voting. The ballots shall be available for public inspection in the office of the town clerk 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.

Rule 16. 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 maker of 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 proponents and opponents of the measure.

Rule 17. Ratification of Actions

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

Rule 18. Procedural Motions

- (a) **Certain Motions Allowed.** In addition to substantive proposals, only the following procedural motions, and no others, are in order. Unless otherwise noted, each motion is debatable, may be amended, and requires a majority of the votes cast, a quorum being present, for adoption. Procedural motions are in order while a substantive motion is pending and at other times, except as otherwise noted.
- (b) **Order of Priority of Motions.** In order of priority (if applicable), the procedural motions are:

Motion 1. To Appeal a Procedural Ruling of the Presiding Officer. A decision of the presiding officer ruling a motion in or out of order, determining whether a speaker has gone beyond reasonable standards of courtesy in his or her remarks, or entertaining and answering a question of parliamentary law or procedure may be appealed to the council, as specified in Rule 7. This appeal is in order immediately after such a decision is announced and at no other time. The member making the motion need not be recognized by the presiding officer and the motion, if timely made, may not be ruled out of order.

Motion 2. To Adjourn. This motion may be made only at the conclusion of council consideration of a pending substantive matter; it may not interrupt deliberation of a pending matter. A motion to recess to a time and place certain shall also comply with the requirements of Rule 2(c).

Motion 3. To Take a Brief Recess.

Motion 4. 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.

Motion 5. To Suspend the Rules. The council may not suspend provisions of the rules that state requirements imposed by law on the council. For adoption, the motion requires a vote equal to two-thirds of the actual membership of the council, excluding the mayor and vacant seats.

Motion 6. To Go into Closed Session. The council may go into closed session only for one or more of the permissible purposes listed in G.S. 143-318.11(a). The motion to go into closed session shall cite one or more of these purposes and shall be adopted at an open meeting. A motion based on G.S. 143-318.11(a)(1) shall also state the name or citation of the law that renders the information to be discussed privileged or confidential. A motion based on G.S. 143-318(a)(3) shall identify the parties in each existing lawsuit concerning which the council expects to receive advice during the closed session, if in fact such advice is to be received.

Motion 7. To Leave Closed Session.

Motion 8. To Divide a Complex Motion and Consider It by Paragraph. The motion is in order whenever a member wishes to consider and vote on subparts of a complex motion separately.

Motion 9. To Defer Consideration. The council may defer a substantive motion for later consideration.

Motion 10. To Postpone to a Certain Time or Day. If consideration of a motion has been postponed, a new motion with the same effect cannot be introduced while the postponed motion remains pending. A member who wishes to revisit the matter must either wait until the specified time or move to suspend the rules [Rule 17(b) Motion 5].

Motion 11. To Refer a Motion to a Committee. The council may vote to refer a substantive motion to a committee for its study and recommendations.

Motion 12. To Amend.

- 1) An amendment to a motion must be pertinent to the subject matter of the motion. An amendment is improper if adoption of the motion with that amendment added would have the same effect as rejection of the original motion. A proposal to substitute completely different wording for a motion or an amendment shall be treated as a motion to amend.
- 2) 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.
- 3) Any amendment to a proposed ordinance policy or resolution shall be reduced to writing before the vote on the amendment.

Motion 13. To Revive Consideration. The council may vote to revive consideration of any substantive motion earlier deferred by adoption of Motion 9 of Rule 18(b).

Motion 14. To Reconsider. The council may vote to reconsider its action on a matter. The motion to do so must be made by a member who voted with the prevailing side (the majority side except in the case of a tie; in that case the “nos” prevail) and at the meeting during which the original vote was taken, including any continuation of that meeting through recess [or adjournment] to a time and place certain. The motion cannot interrupt deliberation on a pending matter but is in order at any time before final adjournment of the meeting.

Motion 15. To Rescind or Repeal. The council may vote to rescind actions it has previously taken or to repeal items that it has previously adopted. The motion is not in order if rescission or repeal of the action is forbidden by law.

Motion 16. To Prevent Reintroduction for Six Months. The motion shall be 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 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.

Rule 19. Withdrawal of Motion

A motion may be withdrawn by the introducer at any time before it is amended or before the presiding officer puts the motion to a vote, whichever occurs first.

Rule 20. Duty to Vote

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 presiding officer, 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 in the council chambers, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an affirmative vote.

Rule 21. Introduction of Ordinances

A proposed ordinance shall be deemed to be introduced on the date the subject matter is first voted on by the council.

Rule 22. Adoption of Ordinances and Approval of Contracts

- (a) An affirmative vote equal to a majority of all the members of the council not excused from voting on the question in issue (including the mayor's vote in case of an equal division) shall be required to adopt an ordinance, to take any action that has the effect of an ordinance, or to make, ratify or authorize any contract on behalf of the town. In addition, no ordinance or action that has the effect of an 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. No ordinance shall be adopted unless it has been reduced to writing before a vote on adoption is taken.

Rule 23. Adoption of the Budget Ordinance

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

- (a) any action with respect to the adoption or amendment of the budget ordinance 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 town 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 the law concerning the call of special meetings applies during that period so long as:

- 1) each member of the council has actual notice of each special meeting call for the purpose of considering the budget, and
- 2) 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.

Rule 24. Special Rules of Procedure

(NOTE: The council may adopt its own special rules of procedure, to be specified here.)

Rule 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 purpose of the closed session. The motion to go into closed session 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 authorized by statute may be taken in closed session. A motion to adjourn or recess shall not be in order during a closed session.

Rule 26. Quorum

A majority of the actual membership of the council plus the mayor, excluding vacant seats, shall constitute a quorum. A majority is more than half. 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.

Rule 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 allotted 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 legal

occupancy limits ~~capacity~~ of the hall (so long as arrangements are made, in the case of hearings subject to the open meetings law, 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.

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; such a hearing is considered to be part of a regular or special meeting of the council. These requirements also apply to hearings conducted by appointed committees of the council, if a majority of the committee 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 the majority of the council is present.

The council may vote to delegate to town staff members, as appropriate, the authority to schedule, call and give notice of public hearings required by law or the council. The council shall provide adequate guidelines to assist staff members in fulfilling this responsibility, and it shall not delegate the responsibility in cases where the council itself is required by law to call, schedule or give notice of the hearing.

At the time appointed for the hearing, the mayor or their 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.

Rule 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.

Rule 29. Minutes

Full and accurate minutes of the council proceedings, including closed sessions, shall be kept. The council shall also keep a general account of any closed session so that a person not in attendance would have a reasonable understanding of what transpired. These minutes and general accounts shall be open to inspection of the public, except as otherwise provided in this rule. The exact wording of each motion and the results of each vote shall be recorded in the minutes, and on the request of any member of the council, the “ayes” and “nos” upon any question shall be taken. Members’ and other persons’ comments may be included in the minutes if the council approves.

Minutes and general accounts of closed sessions will be sealed and withheld from public inspection so long as public inspection would frustrate the purpose of the closed session.

Rule 30. Appointments

The council may consider and make appointments to other bodies, including its own committees, if any, only in open session. The council may not consider or fill a vacancy among its own membership except in open session.

Rule 31. Committees and Boards

- (a) **Establishment and Appointment.** The council or the mayor, if the mayor is delegated that power by the council, may establish and appoint members for such temporary and standing town committees and boards as are needed to help carry on the work of town government. Any specific provisions of law relating to particular committees and boards shall be followed.
- (b) **Open Meetings Law.** The requirements of the open meetings law shall apply to all elected or appointed authorities, boards, commissions, councils or other bodies of the town that are composed of two or more members and that exercise or are authorized to exercise legislative, policymaking, quasi-judicial, administrative or advisory functions. However, the law's requirement shall not apply to a meeting solely among the town's professional staff.

Rule 32. Amendment of the Rules

These rules may be amended at any regular meeting or at a properly called special meeting that includes amendment of the rules as one of the stated purposes of the meeting, so long as the amendment is consistent with the town charter, general law and generally accepted principles of parliamentary procedure. Adoption of an amendment shall require an affirmative vote equal to or greater than two-thirds of all the actual membership of the council, excluding vacant seats.

Rule 33. Reference to *Robert's Rules of Order Newly Revised*

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 Newly Revised, to answer unresolved procedural questions.

Adopted this sixteenth day of August 2022, except where hereafter amended.