

January 8, 2024, Ordinance Book No. 9
VALDESE TOWN COUNCIL – RULES OF PROCEDURES

Meeting Procedures

When the Valdese Town Council conducts its meetings, it follows *Suggested Rules of Procedures for a City Council, third edition, by A. Fleming Bell, II, UNC School of Government*, as a guideline to ensure a fair and impartial hearing for one and all, that each person's rights will be protected, and that democratic rule prevails at each meeting.

Purpose: The purpose of this policy statement is to develop favored procedures for council to look to and follow. It is hoped that these procedures will facilitate communications between and among council members and staff, provide efficient and equitable procedures to follow in and out of public meetings, and provide general information and recommendations about how the council conducts Town business. This policy is based in large part on N.C. law, but the policy is not designed to create any additional rights or obligations and does not provide any procedural rights to any person. The failure of council or any other person to adhere to the recommended procedures described herein shall not affect the validity of any meeting or action taken by council. To the extent there is conflict or any discrepancy between these procedures and the N.C. General Statutes, case law, or Town ordinances (collectively "law"), the law shall prevail.

Rule 1. Regular Meetings

The council shall hold a regular meeting on the first Monday of each month, except that if a regular meeting day is a legal holiday or falls on Easter Monday, the meeting shall be held on the next business day. So that the annual budget may be approved before July 1, the council may hold its July meeting on the last Monday in June. The meeting shall be held at Valdese Town Hall Council Chambers and shall begin at 6:00 p.m. A copy of the council's current meeting schedule shall be filed with the town clerk.

Rule 2. Special, Emergency, and Recessed Meetings

Special Meetings.

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. 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) e-mailed or 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) e-mailed or delivered to each newspaper, 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; and (2) e-mailed or delivered to each newspaper, radio station, television station, and person who has filed a written request for notice with the town clerk. [Such notice shall also be e-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.]

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(b) Emergency Meetings. Emergency meetings of the city 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 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 e-mailed or 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) shall be given to each local newspaper, local radio station, and local television station. This notice shall be given either by telephone or e-mail.

(c) Recessed. 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. During this meeting, the council shall elect a mayor pro tempore. 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 clerk 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 ten days before the meeting. Any council member 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 the proposed agenda and agenda package by Friday afternoon prior to the Monday meeting and proposed agenda shall be available for public inspection and distribution or copying when it is distributed to the council members. Further, each preliminary proposed agenda, alone, without attachments, shall be provided to each council member and published on the Town's website and Facebook page by 4:00 PM, the Monday before each regularly scheduled council meeting.

(b) 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 under "Item(s) Removed From Consent Agenda." All items on the consent agenda shall be voted on and adopted by a single motion, with the minutes reflecting the action on each item.

(c) 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

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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 Comment

The council shall provide at least one period for public comment per month during a regular meeting, unless no regular meeting is held that month. Any individual or group who wishes to address the council shall inform the town clerk, any time prior to the start of the meeting, and provide their name, address and subject matter about which they wish to speak. Person(s) must be present if they wish to address the Council. Comments should be limited to five minutes per speaker.

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:

- I. Call Meeting to Order
- II. Invocation
- III. Pledge of Allegiance
- IV. Informational Items:
 - A. Communication Notes
 - B. Reading Material
- V. Open Forum/Public Comment
- VI. Consent Agenda: All items below are considered to be routine by the Town Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council Member so requests. In which event the item will be removed from the Consent Agenda and considered under Item VII.
 - A. Approval of the minutes, etc.
- VII. Item(s) Removed from Consent Agenda
- VIII. New Business:
 - A. Public hearings, etc.
- IX. Manager's Report
- X. Mayor and Council Comments
- XI. Closed Session
- XII. Adjournment

Rule 7. Office of Mayor

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;

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(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 made may not be ruled out of order.

Rule 8. Office of Mayor Pro Tempore

At the organizational meeting, the council shall elect from among its members a mayor pro tempore to serve at the council's pleasure. A council member who serves as mayor pro tempore 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 mayor pro tempore 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 mayor pro tempore. 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 mayor pro tempore 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, he or she 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. Any member may make a motion.

Rule 11. Second to the Motion

Second to the motion will be required.

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 27 being present, unless otherwise required by these rules or the laws of North Carolina. A majority is more than half.

Rule 15. Voting

The council will vote verbally. In case of a split vote the mayor will call for the ayes or noes. The mayor may also ask for the vote by show of hands.

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:

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- (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. A 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, 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 [or adjourn] 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. 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 5. To Leave Closed Session.

Motion 6. To Defer Consideration -- Table. The council may defer a substantive motion for later consideration at an unspecified time. A substantive motion the consideration of which has been deferred expires 100 days thereafter unless a motion to revive consideration is adopted. If consideration of a motion has been deferred, a new motion with the same effect cannot be introduced while the deferred motion remains pending (has not expired). A member who wishes to revisit the matter during that time must take action to revive consideration of the original motion [Rule 18(b), Motion 9].

Motion 7. 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 wait until the specified time.

Motion 8. To Amend.

- (a) 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

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or an amendment shall be treated as a motion to amend.

- (b) 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.
- (c) Any amendment to a proposed ordinance [order] [policy] [resolution] shall be recited by the mayor before the vote on the amendment.

Motion 9. To Revive Consideration. The council may vote to revive consideration of any substantive motion earlier deferred by adoption of Motion 6 of Rule 18(b). The motion is in order at any time with 100 days after the day of a vote to defer consideration. A substantive motion on which consideration has been deferred expires 100 days after the deferral unless a motion to revive consideration is adopted.

Motion 10. 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 an action is forbidden by law.

Rule 19. Renewal of Motion

A motion that is defeated may be renewed at any later meeting unless a motion to prevent reintroduction has been adopted.

Rule 20. 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 21. 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 chamber, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an affirmative vote.

Rule 22. 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 23. Adoption of Ordinances and Approval of Contracts

(a) Generally. 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 city. 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, and not including the mayor unless he or she has the right to vote on all questions before the council. No ordinance shall be adopted unless it has been reduced to writing before a vote on adoption is taken.

Rule 24. Adoption of the Budget Ordinance

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

- (1) 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;

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- (2) 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
- (3) 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.

Rule 25. Special Rules of Procedure

The board has no special rules at this time.

Rule 26. 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. If the motion is based on G.S. 143-318.11(a)(1) (closed session to prevent the disclosure of privileged or confidential information or information that is not considered a public record), it must also state the name or citation of the law that renders the information to be discussed privileged or confidential. If the motion is based on G.S. 143-318.11(a)(3) (consultation with attorney; handling or settlement of claims, judicial actions, or administrative procedures), it must identify the parties in any existing lawsuits concerning which the public body expects to receive advice during 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 27. 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 28. 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 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

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part of a regular or special meeting of the council. These requirements also apply to hearings conducted by appointed or elected 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 a majority of the council is present.

The council may vote to delegate to city 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 his or her designee shall open the public hearing and then preside over it. When the allotted time of five minutes per person expires or when no one wishes to speak who has not done so, the presiding officer shall declare the hearing closed.

Rule 29. 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 30. Minutes

Full and accurate minutes of the council proceedings, including closed sessions, shall be kept. The board 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 “noes” 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 may be sealed by action of the council. Such sealed minutes and general accounts may be withheld from public inspection so long as public inspection would frustrate the purpose of the closed session.

Rule 31. 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.

Town staff liaisons to boards and commissions shall make recommendations to council for appointments/reappointments.

Rule 32. 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 city 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.

(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 city that are composed of two or more members and that exercise or are authorized to exercise legislative, policy-making, quasi-judicial, administrative, or advisory functions. However, the law’s requirements shall not apply to a meeting solely among the city’s professional staff.

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Rule 33. Amendment of the Rules

These rules may be amended at any regular meeting or at any 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 city 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, and not including the mayor.

Rule 34. 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 8th day of January, 2024.

Charles Watts, Mayor

Jessica Lail, Town Clerk