

ARTICLE 3

# City and County Governing Boards

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THIS ARTICLE DISCUSSES COUNTY and city governing boards—their structure, their meetings, their forms of action, and their procedures. A county’s governing board is called the board of county commissioners. A city’s or town’s governing board, however, may bear any one of three names—the city or town council, the board of commissioners, or the board of aldermen. (Each city or town may select whichever of the three it prefers.) For ease of reference, in this article a city’s or town’s governing board is called the *council*, and cities and towns both are referred to as *cities*.

A county’s or city’s governing board holds ultimate authority to act for the local government. It decides what services the county or city provides and at what level. It establishes the county’s or city’s fiscal policy by adopting the annual budget ordinance, and it levies the unit’s taxes. It adopts the county’s or city’s ordinances. In addition to exercising these sorts of broad policy-making responsibilities, a governing board typically decides numerous separate administrative matters. Thus it may authorize the local government to enter into a contract, buy or sell a parcel of property, award the successful bid on a purchase or a construction project, or accept the dedication of a street or utility easement.

As it takes all these actions—and many others—the governing board must act as a collective body. Just as the county or city itself has a legal existence separate from its residents, so too a board of county commissioners or city council is a body separate from its members. The members may act as the governing board only when properly convened, in a legal meeting. An individual member may not act on the board’s behalf, at least not without specific authorization from the board itself. Moreover, a majority of the entire membership may act on the board’s behalf only at a meeting of the board called and held pursuant to law.

## Governing Board Structure

There is no typical structure for either a board of county commissioners or a city council in North Carolina. Each county board’s structure is set out in local legislation of the General Assembly while each city board’s structure is set out in the city’s charter; both local acts and charters exhibit considerable variety in what size the boards are; in whether the members are elected by district or at large; and in whether terms are for two years or four. All 100 boards of county commissioners are elected in partisan elections, while almost all city councils are elected in nonpartisan elections. Despite the absence of a typical structure, it is useful to describe the patterns found in board structures and the trend of change in recent years. (Appendix 3-1 contains summary figures on the structures of the governing boards of North Carolina cities; comparable information on counties is tabulated by the North Carolina Association of County Commissioners and can be found at the Association’s webpage, at <http://www.ncacc.org/research/form.htm>.)

### Size

County boards of commissioners range in size from three members to eleven, although only five have more than seven members. By far the most popular size is five.

City councils range in size from two members to eleven, although only two have more than eight members. As with county boards, five is the most popular size.

### Length of Members’ Terms

All terms for both county commissioners or city council members are for either two years or four, the larger number of boards having four-year terms. Most boards with four-year terms stagger elections so that about half the members are elected every two years; and most changes in recent years have been to the staggered four-year term.

### Election at Large or by District

Slightly more than half of the boards of county commissioners elect at least some of their members from districts. The remaining boards are elected from the county at large.

In contrast, nearly all city councils—more than 85 percent statewide—are elected from the city at large. Only 15 of the 350-plus cities under 2,500 use any sort of electoral district.

### Election on a Partisan or Nonpartisan Basis

As was noted above, all 100 boards of county commissioners are elected on a partisan basis, with the elections occurring in even-numbered years.

On the other hand, more than 98 percent of city councils are elected on a nonpartisan basis. Most of these, particularly those in the smaller cities, are elected on a plurality basis, without a primary. All city elections except in High Point take place in odd-numbered years.

### **Changing of the Board's Structure**

A county governing board's structure may be changed through either of two methods. First, the General Assembly may change the structure by enacting a local act applicable to the county. Second, the board itself may propose a change by ordinance, subject to the approval of the county's voters. Such a change is limited to the specific options set out in the applicable statute, G.S. 153A-58 through -64. As a practical matter, the second method is almost never used.

A city governing board's structure, on the other hand, may be changed through any of four methods. First, as with county commissioners, the General Assembly may change the structure by amending the city's charter, a local act of the legislature. Although the legislature retains full legal control of the process, as a practical matter any such amendment would normally be enacted only at the request of the affected board. Second, the governing board itself may change its structure simply by adopting an ordinance. Such an ordinance is adopted following a public hearing on the proposed change. Third, the governing board may adopt such an ordinance but the ordinance's effectiveness may be conditioned upon approval by the city's voters. The governing board itself might decide to require voter approval for the change to be effective; or voters might force a referendum on a board ordinance by submitting petitions with a sufficient number of signatures: 10 percent of the city's registered voters or 5,000, whichever is less. Fourth, the voters may initiate such a change by submitting petitions that both propose the change and call for a referendum on the proposal. This method also requires the signatures of 10 percent of the city's registered voters or 5,000, whichever is less. Each of the methods that may be carried out locally is limited to the specific options set out in the applicable statute, G.S. 160A-101 through -111.

## **Presiding Officers: The Chair and the Mayor**

### **The Chair**

In most counties, the chair of the board of commissioners is selected by the board itself. In four counties, this is a separate office, and the chair is elected as such by the people; in a fifth, the highest vote-getter among the commissioners is automatically chair. In all counties, the board itself must choose a vice-chair to act in the absence or disability of the chair (G.S. 153A-39).

When the board selects the chair, it does so at its first regular meeting in December of odd-numbered years or the first Monday in December in even-numbered years; the chair serves a term of one year and presides at all board meetings. By law, this official has the same right, indeed duty, to vote on all questions before the board unless excused by a standing rule of the body. However, the chair may not vote to break a tie vote in which he or she participated. The chair is generally recognized by law as the county's chief executive officer and may acquire considerable prestige and influence by virtue of the position. Although as a general rule chairs have no more legal power than other members of the board, they do have special authority to declare states of emergency under the state laws governing riots and civil disorders, and they have authority to call special meetings of the board on their own initiative.

### **The Mayor**

North Carolina's mayors enjoy very few formal powers. With but few exceptions these powers consist of presiding at governing board meetings, voting to break ties at those meetings (and at no other time), and signing documents on behalf of the city. (A slowly increasing number of mayors vote on all matters, not just to break ties.) The strong-mayor system used in many of the nation's large cities, under which the mayor is charged with actually running city government, is simply not found in this state.

Despite having so few formal powers, many mayors do exercise great influence in the operation of their cities. The office of mayor is viewed by both the electorate and those who serve in city office as the chief political office in city government, and by the force of that perception and their personality many mayors effectively lead their governing boards. Moreover, in small cities without a manager, the mayor often serves as de facto chief administrator simply because he or she is willing to work long hours in the town hall.

All but a few North Carolina mayors are elected by the city's voters. Those other few are elected by the governing board itself from its own membership.

## Vacancies

With both boards of county commissioners and city councils, the board fills any vacancies occurring among its membership. (A city council also fills any vacancy in the office of mayor.) The statutory framework within which vacancies are filled differ between counties and cities, however, with counties subject to a greater degree of statutory control. In both counties and cities, if the vacancy occurs in a two-year term or in the last two years of a four-year term, the appointment is for the remainder of the unexpired term. If the vacancy takes place in the first two years of a four-year term, the appointment runs only until the next general election, when an election is held to fill the office for the remainder of the unexpired term.<sup>1</sup>

### Counties

In county government, a person appointed to fill a vacancy must be a member of the same political party as the one replaced (if that person was elected as the nominee of a political party), and the executive committee of that party has the right to be consulted before the appointment is made. As of 2005 the board *must* appoint the executive committee's nominee in forty-two counties, if the recommendation is made within thirty days after the seat becomes vacant.<sup>2</sup> In the other fifty-eight counties, the board need not follow any advice given by the committee.

Occasionally a board of county commissioners finds itself deadlocked and unable to fill a vacancy. Since nearly all of these boards have an odd number of members, one vacancy means that the remaining members could become equally divided over two candidates, so that neither candidate could receive a majority vote. Recognizing this problem the law provides that when a board of commissioners fails to fill a vacancy in its membership within sixty days, the clerk to the board must report it to the clerk of superior court, who must fill the vacancy within ten days after the day the report is received.

The law also provides for another contingency that has not occurred to date. If the number of vacancies on the board is such that a quorum cannot be obtained, the chair must appoint enough members to make one up, and the board then fills the vacancies. If this situation exists and the office of chair is also vacant, the clerk of superior court may act in the chair's stead on petition of any remaining member of the board or any five registered voters of the county.

Whoever makes appointments to the board is bound by the rules that each appointee must be a member of the same political party as the person being replaced, that the party's executive committee must be consulted, and that in certain counties the committee's nominee must be appointed.

### Cities

In those relatively few cities whose councils are elected on a partisan basis, a person appointed to fill a vacancy must be a member of the same political party as the one replaced (if that person was elected as the nominee of a political party). Unlike with counties, the city council need not consult with the executive committee of the political party involved. In cities using nonpartisan elections, the council may fill a vacancy with any registered voter of the city. (In some cities, it is common to fill a vacancy with the unsuccessful candidate in the most recent city election with the most votes, but there is no requirement that a city follow such a practice.) If a city council becomes deadlocked and cannot fill a vacancy, there is no statutory procedure for breaking the deadlock. Rather, the council must continue to try to resolve the matter.

The statutes do not set out any procedures that a city must follow in filling a vacancy, and in fact cities follow a variety of different procedures. A member might simply move to appoint a particular person to the seat, and the council vote to do so. Or, a council might conduct an election among two or more candidates. Some councils take

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1. If the vacancy occurs at the very end of the first two years, so that there is no time to file for the midterm election, the board fills the vacancy for the remainder of the unexpired term. In county government, this period is the sixty days before the general election, while in city government it is the ninety days before the city election.

2. N.C. Gen. Stat. § 153A-27.1 (hereafter G.S.). Alamance, Alexander, Alleghany, Avery, Beaufort, Brunswick, Buncombe, Burke, Cabarrus, Caldwell, Carteret, Cherokee, Clay, Cleveland, Cumberland, Dare, Davidson, Davie, Forsyth, Graham, Guilford, Haywood, Henderson, Hyde, Jackson, Lincoln, Macon, Madison, McDowell, Mecklenburg, Moore, Pender, Polk, Randolph, Rockingham, Rutherford, Sampson, Stanly, Stokes, Transylvania, Wake, and Yancey counties.

applications for persons interested in serving and conduct interviews of the leading candidates. Any council deliberations on such candidates must take place in open session; the open meetings law does not permit closed sessions for that purpose.<sup>3</sup>

## Governing Board Meetings

### Regular Meetings

#### *Counties*

G.S. 153A-40 directs boards of county commissioners to hold at least one meeting each month, although they may meet more often if necessary. Many boards hold two regular meetings each month. The board may select any day of the month and any public place within the county for its regular meetings, but unless it selects some other time or place by formal resolution, the law requires the board to meet on the first Monday of the month at the courthouse. The statute does not specify the time of day. Some boards hold some of their regular meetings in the evening to allow greater public attendance.

#### *Cities*

G.S. 160A-71 directs each city's governing board to fix the time and the place of its regular meetings. (If the board fails to act, the statute provides that meetings shall be held on the first Monday of each month at 10:00 a.m.)

### Organizational Meeting

After each election the newly elected (or re-elected) members must qualify for office by taking and subscribing the oath of office. In addition, the governing board must organize itself. The meeting at which these events take place is known as the *organizational meeting*.

#### *Counties*

G.S. 153A-26 directs that the each commissioner elected or reelected at the November election take the oath of office on the first Monday in December following the election; at the same time, the board elects its chair and vice-chair for the ensuing year. If a newly elected commissioner is unable to take the oath at that time, he or she may take it later.

#### *Cities*

In the absence of any council action setting an earlier date, a city council's organizational meeting is held at the board's first regular meeting in December following the election. (G.S. 160A-68 permits a board to establish an earlier date if it wishes. It may schedule the meeting for any time during the period beginning on the day that the election results are officially determined and published, and ending on the day that the board holds its first regular meeting in December. It is rare for a council to establish such an earlier date.) At the organizational meeting, the newly elected and reelected members and the mayor, if appropriate, must take the oath of office. In addition, the board must elect a mayor pro tempore (and in cities in which the board elects the mayor, the mayor). G.S. 160A-70 specifies that the mayor pro tempore is to serve at the pleasure of the governing board.

### Special Meetings

Although both county commissioners and city councils may hold special meetings, the statutes under which they may do so are somewhat different, as described just below. It should also be noted that in addition to the procedures described here, a governing board must also comply with the public notice requirements of the open meetings law, described in Article 8.

In general, a governing board may take any action at a special meeting that it may take at a regular meeting. A few exceptions do exist, however. For example, it must adopt ordinances awarding or amending franchises at regular meetings, and it must take action on several procedures for selling property at regular meetings. (Even so, a board may *discuss* these matters at a special meeting; it simply may not act.) Because of these exceptions, before taking any action at a special meeting, a board should consult its attorney to ascertain whether it may properly take the action.

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3. The statutory rules requiring open meetings are described in Article 8.

### **Counties**

G.S. 153A-40 permits a special meeting to be called by the chair or by a majority of the other board members. The law lays down specific rules for calling special meetings. They must be called by written notice stating the time, place, and subjects to be considered. This notice must be posted on the courthouse bulletin board and delivered to each board member at least forty-eight hours before the meeting. Unless all members attend or sign a written waiver, only business related to the subjects stated in the notice may be transacted at a special meeting.

### **Cities**

G.S. 160A-71 permits special meetings of a city council to be called in either of two ways. First, if a board is convened in a regular meeting or a duly called special meeting, it may schedule a special meeting. Second, the mayor, the mayor pro tempore, or any two members of the board may call such a meeting. They may do so by preparing and signing a written notice of the meeting—setting out its time, its place, and the subjects to be considered—and causing this notice to be delivered to each board member (or to his or her home). Under G.S. 160A-71 this notice must be delivered at least six hours before the meeting, but as pointed out in Article 8, the open meetings law requires forty-eight hours' *public* notice of a special meeting.

### **Meeting Location**

While county commissioners' meetings are generally held within the county, G.S. 153A-40 permits out-of-county meetings in four specific instances (and not otherwise):

1. in connection with a joint meeting of two or more public bodies, as long as the meeting is within the boundaries of the political subdivision represented by the members of one of the participating bodies;
2. in connection with a retreat, forum, or similar gathering held solely to provide the county commissioners with information relating to the performance of their public duties (no vote may be taken during this type of meeting);
3. in connection with a meeting between the board and its local legislative delegation while the General Assembly is in session, as long as no votes are taken except concerning matters directly relating to proposed or pending legislation;
4. while the commissioners are attending a convention, association meeting, or similar gathering, if the meeting is held solely to discuss or deliberate on the board's position concerning convention resolutions, association officer elections, and similar issues that are not legally binding.

There are no comparable statutory restrictions on the location of city council meetings.

## **Rules of Procedure**

Each governing board has the power to adopt its own rules of procedure. Exercise of this power can help prevent arguments over procedure that cannot otherwise be satisfactorily resolved. Boards often base their rules on *Robert's Rules of Order* or similar sources; they should be careful, however, to adapt these models, which are primarily intended for large groups, to the special needs of a small board. For this purpose they will find two School of Government publications—*Suggested Rules of Procedure for the Board of County Commissioners* and *Suggested Rules of Procedure for a City Council* very helpful.

One procedural rule that is useful, even if the board does not adopt a full set of rules, is a standard agenda that establishes the order of business at board meetings. Such an agenda organizes the matters to come before the board, setting forth every item that must be discussed and grouping similar subjects. A model for a standard agenda is set out in both of the *Suggested Rules of Procedure*:

- Adoption of the agenda
- Approval of minutes of prior meeting
- Public hearing(s)
- Administrative reports
- Committee reports
- Unfinished business
- New business
- Informal discussion and public comment

## Public Hearings and Public Comment

In the course of a normal year, a governing board will hold several public hearings. Some of them will be required by statute, such as those on the budget ordinance, a bond ordinance, or a zoning ordinance or amendment thereto. Some hearings may be held on the board's own initiative, without statutory requirement, to give interested citizens an opportunity to make their views known to the board on a controversial issue, such as a dog-control ordinance. Public hearings are formal occasions focused on a single subject. The statutes also require boards of county commissioners, city councils, and school boards to offer at least one public comment period each month during a regular meeting, at which members of the public may comment on local government affairs more broadly.<sup>4</sup>

The laws that require public hearings do not specify the manner in which they must be conducted; the laws only require that they be held. Nevertheless, G.S. 153A-52 and -52.1, for counties, and G.S. 160A-81 and -81.1, for cities, allows the board to adopt reasonable rules governing the conduct of public hearings and public comment periods. These rules may regulate such matters as allotting time to each speaker, designating who will speak for groups, selecting delegates from groups when the hearing room is too small to hold everyone who wants to attend, and maintaining order as well as decorum.

## Governing Board Action

### Forms of Action

Governing boards take action in a variety of forms: ordinances, resolutions, motions, and orders. Textbooks usually define *ordinance* as a permanent rule of conduct imposed by a county or city on its citizens. Thus ordinances may limit the amount of noise that citizens may make, regulate how they may use their land, or require their businesses to treat sewage before discharging it into the government's system. In North Carolina, local governments also appropriate money and levy taxes by ordinance.

The other sorts of actions are less precise in their meaning. Textbooks often define *resolutions* as expressions of board opinion on administrative matters and *motions* and *orders* as actions resulting in or expressing a decision. Thus a board might set out the unit's policy on extension of utilities by resolution while approving specific extensions by motion or order. In practice the distinction is not always so carefully drawn; often one board takes actions by order or motion that another takes by resolution.

### Quorum

As noted earlier, a governing board may take action only during a legally constituted meeting. A meeting is legally constituted only when a quorum is present, and the rules for determining a quorum are slightly different between counties and cities.

#### Counties

G.S. 153A-43 defines a quorum as a majority of the membership of the board of commissioners, and provides that the number is not affected by vacancies. Thus, if a board has six members, its quorum is four; and if there is a vacant seat, the quorum remains four.

#### Cities

G.S. 160A-74 defines a quorum as a majority of the actual membership of the council, including the mayor but excluding vacant seats. For example, if a city is governed by a five-member board plus the mayor, the actual membership of the group is six and thus a quorum is four. If one seat is vacant, however, the membership becomes five and a quorum three.

In both counties and cities, once a quorum has been attained and the meeting convened, a member may not destroy the quorum by simply leaving. G.S. 153A-43, for counties, and G.S. 160A-74, for cities, each provides that if a member withdraws from the meeting without being excused by a majority vote of the remaining members present,

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4. This public comment period is discussed in more detail in Article 9's discussion of citizen participation.

he or she is still counted as present for purposes of a quorum. In addition, the city statute provides that the member is counted as voting aye on all matters that come before the board after he or she leaves. (There is no comparable provision in the county statute, but many boards of commissioners have adopted the same rule by board action.)

## **Voting Rules**

Both county commissions and city councils are subject to complicated rules that determine whether a measure has passed. In both counties and cities, the number of board members who must vote for a measure in order for that measure to pass differs according to a number of factors: whether the measure is an ordinance or some other form of action; when the measure first comes before the governing board; and whether any members have been excused from voting on the measure. The actual provisions, however, differ between counties and cities.

### ***Counties***

The law does not regulate the manner in which orders and resolutions are adopted by a board of commissioners beyond the minimum requirement of a valid meeting at which a quorum is present, but several laws govern the adoption of ordinances (G.S. 153A-45 through -50). An ordinance may be adopted at the meeting at which it is introduced only if it receives a unanimous affirmative vote, with all members of the board present and voting. If it passes at this meeting but with less than a unanimous vote, it may finally be passed by a majority vote at any time within 100 days of its introduction. This rule does not apply to the following ordinances:

- the budget ordinance (which may be passed at any meeting at which a quorum is present)
- the bond ordinance (which always requires a public hearing before passage and in most cases requires approval by the voters as well)
- any ordinance on which the law requires a public hearing before adoption (such as a zoning ordinance)
- a franchise ordinance (which must be passed at two separate regular meetings of the board)

### ***City Ordinances: The Day of Introduction***

To be adopted on the day that it is introduced, a city ordinance, or a city council action no matter how labeled that has the effect of an ordinance, must be approved by a vote of at least two-thirds of the actual membership of the council, excluding vacant seats. In determining the membership, the mayor is not counted unless he or she has the right to vote on all questions before the board. Thus if a board has seven members and is presided over by a mayor who votes only to break ties, five members must vote in favor of an ordinance for it to be adopted on the day that it is first introduced. If there is a vacant seat, however, the actual membership is then six, and only four votes are required to adopt the ordinance on that first day.

Given this special rule pertaining to the day of introduction, what constitutes introduction? The statute states that the day of introduction is the day on which the board first votes on the subject matter of the ordinance. Examples of such a vote might include a vote to hold a hearing on the ordinance, to refer it to committee, or to try to pass it.

### ***City Ordinances: The General Rule***

After the day on which it is introduced, an ordinance may be adopted by an affirmative vote equal to at least a majority of the board membership; vacancies do not affect the number necessary for approval. However, if a member has been properly excused from voting on a particular issue (see the discussion under the heading “Excusing of Members from Voting,” later in this article), on that issue the number required for approval is a majority of the number of members not excused. For example, a six-member board normally requires an affirmative vote of four members to adopt an ordinance. But if one member is excused on a particular issue, the board is treated as having only five members on that issue, and only three need vote affirmatively for the measure to pass.

Although the mayor is not counted in determining how many members constitute the board (unless he or she is elected by and from the board), if there is a tie, the mayor’s vote is counted in determining whether the requisite majority vote has been attained. Thus if a six-member board divides three to three on an issue and the mayor votes affirmatively to break the tie, the measure has received the four votes necessary for its adoption.

G.S. 160A-75 requires this sort of majority on a few other measures besides ordinances: (1) any action having the effect of an ordinance, no matter how it is labeled; (2) any measure that authorizes an expenditure of funds or commits a board to one, other than the budget ordinance or a project ordinance; and (3) any measure that authorizes, makes, or ratifies a contract.



### ***City Resolutions and Motions***

With the exceptions just noted, the general law makes no special provision for the sort of city council vote necessary to adopt measures other than ordinances. (Some charters do require that resolutions or other actions receive the same vote as ordinances.) In that circumstance the rule is that action may be taken by a majority of those present and voting, as long as a quorum is present. Thus if a board has eight members, its quorum is five; and if only five members are present, a resolution or a motion might normally be adopted by a vote of only three of the five.

### **Excusing Members from Voting**

G.S. 153A-44, for counties, and G.S. 160A-75, for cities, permit a board member to be excused from voting in two circumstances in which there is a potential conflict of interest: (1) when the question involves his or her own financial interest and (2) when it involves his or her official conduct. In addition, these two statutes reference three other statutes that *prohibit* a board member from voting in certain circumstances because of a financial conflict: G.S. 14-234, when the board member may be interested in a contract being approved or considered by the board; G.S. 153A-340 or G.S. 160A-381, when the board is considering a zoning ordinance amendment that is likely to have a “direct, substantial, and readily identifiable financial interest on the member”; and G.S. 153A-345 or G.S. 160A-388, when the board is acting on a land use matter in a quasi-judicial capacity and the board member’s participation would violate the constitutional requirement of an impartial decision maker. In those situations in which the statutes do not expressly prohibit the interested board member from voting, the county statute specifies that the board must vote to excuse a member. The city statute is silent as to procedure, but unless the board has adopted a procedural rule authorizing a member to be excused by the mayor or to excuse himself or herself, such an abstention should be allowed only by vote of the remaining board members. If a member is excused, that member should neither vote nor participate in any way in the deliberations leading up to the vote.

Unless a board member is excused, he or she must vote; unexcused abstentions are not permitted. If a council member persists in abstaining without being excused, G.S. 160A-75 directs that the member be counted as voting aye. There is no comparable provision in the county statute, but many boards of county commissioners have adopted such a provision by rule.

The rules for mayors are slightly different than for commissioners or council members. If a mayor is elected by and from the board, he or she is a board member and must vote. But a mayor who may vote only to break a tie has the option of not voting at all. The rule against unexcused abstentions does not apply to such a mayor. If he or she refuses to break a tie, the measure is defeated.

### **Minutes**

G.S. 153A-42 and 160A-72 require that each governing board, through its clerk, keep “full and accurate” minutes of its proceedings. Although the statute does not detail what full and accurate minutes should include, the proper content of board minutes is suggested by their purpose, which is to provide an official record, or proof, of governing board actions. Therefore at a minimum the minutes should include two sorts of material: (1) the actions taken by a board, stated specifically enough to be identified and proved; and (2) proof of any conditions necessary to action, such as the presence of a quorum.

As noted, the purpose of minutes is to provide an official record, or proof, of council action. In a judicial proceeding, the minutes are the only competent evidence of council action, and as such, they may not be attacked on the ground that they are incorrect. Once approved, minutes may be modified in only two ways: (1) a person may bring a legal action alleging that the minutes are incorrect and seeking a court order to correct them; and (2) much more common, a council may itself modify its minutes if they are found to be incorrect.

### **Ordinance Books and Codes**

G.S. 153A-48 and 160A-78 require that all counties and cities, respectively, maintain an *ordinance book*, separate from the minute books, in which all ordinances are placed when adopted. If a county or city has codified its ordinances, ordinances are placed in the ordinance book when they are adopted and remain there until they are placed in the codification. If a county or city has not codified its ordinances, they are placed in the ordinance book permanently.

G.S. 153A-49 permits but does not require counties to codify their ordinances, while G.S. 160A-77 requires cities with populations over 5,000 (and permits smaller cities) to codify theirs. A *county or city code* is a compilation of the local government’s ordinances systematically arranged by subject into chapters or articles; it is the county or municipal parallel to the North Carolina General Statutes. In requiring larger cities to codify their ordinances, the

law assumes that these cities will have so many ordinances that particular ones would be difficult to locate in a simple ordinance book. If a county, or a city of less than 5,000 people, finds itself in that situation, then it too should codify its ordinances.

It is crucial that a local government place its ordinances in either an ordinance book or a code. Unless an ordinance is found in one or the other, G.S. 160A-79 will not permit the courts to enforce it.

## Appointments: Officers, Boards, and Commissions

### Counties

The law dictates many features of county government organization. The sheriff and the register of deeds are elected by the people. Each county has at least one board of education (and such boards are separate from county government), a board of social services, and a board of elections. Each county is served by a board of health and a mental health, mental retardation, and substance abuse board. Many counties have a community college board and a board of alcoholic beverage control, both separate from county government. The board of county commissioners participates in choosing at least some of the members of all of these boards except the board or boards of education (elected by citizens) and the board of elections (appointed by the State Board of Elections). Because these boards are established pursuant to the requirements of state law, the board of commissioners has little or no power to alter their structure or authority, although it may exercise control over the budgets of some of them. (The roles of most of these other boards are discussed in later articles.) The board of commissioners has authority to organize other local boards, agencies, departments, and offices not mandated by state law in any way it sees fit.

The board of commissioners is served as a board by three principal officials whom the board itself appoints directly: the county manager, the county attorney, and the clerk to the board. The manager's powers and duties are discussed in Article 5. The county attorney and the clerk to the board are discussed in Article 7. Each of these officials serves at the pleasure of the board. The county commissioners also appoint the tax assessor and the tax collector, and some boards of county commissioners appoint the county's finance officer.

### Cities

Generally, in a city with a city manager the governing board appoints the manager, the city attorney, and the city clerk, and the manager appoints all other city officers and employees. In a number of cities with managers, the board also appoints the tax collector and the finance officer, and sometimes the manager appoints the clerk. In a city without a manager, the board appoints all department heads and normally delegates to them the appointment and the supervision of other employees, although in a few mayor-council cities the board delegates employee appointment and supervision to an administrator.

The board and the mayor are also responsible for appointments to the various boards and commissions of city government, such as the planning commission, the parks and recreation commission, and the civil service board. (In most cases the board makes the appointments; the mayor, however, is by statute the appointing official for the housing authority.) For some boards and commissions the number of members and the length of their terms are set out by statute; for others, these matters are established by city ordinance.

## Additional Resources

- Bell, A. Fleming, III. *Suggested Rules of Procedure for a City Council*, 3d ed. Chapel Hill, N.C.: Institute of Government, University of North Carolina at Chapel Hill, 2000.
- Ferrell, Joseph S. *Suggested Rules of Procedure for the Board of County Commissioners*, 3d ed. Chapel Hill, N.C.: Institute of Government, University of North Carolina at Chapel Hill, 2002.
- Lawrence, David M. *North Carolina City Council Procedures*, 2d ed. Chapel Hill, N.C.: Institute of Government, University of North Carolina at Chapel Hill, 1997.

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The portions of this article discussing boards of county commissioners reflect the work of Joseph S. Ferrell in previous editions of the School's book on county government.

**Appendix 3–1. Summary Figures on the Structures of Governing Boards of North Carolina Cities**

	23 cities over 25,000	39 cities 10,000– 25,000	45 cities 5,000– 10,000	86 cities 2,500– 5,000	118 cities 1,000– 2,500	99 cities 500– 1,000	139 cities under 500	549 cities TOTAL
<b>STYLE OF CORPORATION</b>								
City	21	19	18	6	3	3	0	70
Town	2	19	26	78	111	94	129	459
Village	0	1	1	2	4	2	10	20
<b>STYLE OF GOVERNING BOARD</b>								
Board of Commissioners	0	8	13	38	72	62	92	285
Board of Aldermen	2	4	4	14	17	14	16	71
Council	21	27	28	34	29	23	31	193
<b>FORM OF GOVERNMENT</b>								
Council–Manager	23	37	40	59	42	11	8	220
Mayor–Council	0	2	5	27	76	88	131	329
<b>SELECTION OF MAYOR</b>								
Mayor elected by the people	22	39	43	81	113	87	125	510
Mayor selected by and from governing board	1	0	2	5	5	11	11	35
Other	0	0	0	0	0	1	3	4
<b>MAYOR'S TERM</b>								
2-year term	14	19	27	36	65	58	106	325
4-year term	9	20	17	45	51	35	29	206
At board's pleasure	0	0	1	5	2	6	4	18
<b>NUMBER OF MEMBERS OF GOVERNING BOARD</b>								
11 members	1	0	0	0	0	0	0	1
9 members	1	0	0	0	0	0	0	1
8 members	4	6	1	0	0	0	0	11
7 members	4	7	3	1	1	1	0	17
6 members	11	7	7	15	11	2	2	55
5 members	1	13	25	49	77	70	77	312
4 members	1	6	9	20	27	20	28	111
3 members	0	0	0	1	2	6	31	40
2 members	0	0	0	0	0	0	1	1
<b>TERM OF OFFICE OF GOVERNING BOARD</b>								
2-year term	10	9	8	15	22	35	81	180
4-year term	3	1	3	2	3	6	10	28
Staggered 4-year term	10	27	33	67	93	56	46	332
Other	0	2	1	2	0	2	2	9

*continued*

**Appendix 3-1. continued**

	23 cities over 25,000	39 cities 10,000– 25,000	45 cities 5,000– 10,000	86 cities 2,500– 5,000	118 cities 1,000– 2,500	99 cities 500– 1,000	139 cities under 500	549 cities TOTAL
<b>MODE OF ELECTION OF GOVERNING BOARD</b>								
Elected at large	7	21	30	73	108	96	137	472
Elected at large, but with district residence requirement	2	3	6	7	3	1	2	24
Combination of at- large members and members elected at-large but repre- senting districts	2	0	3	1	1	1	0	8
Elected by and from districts	5	5	2	2	3	1	0	18
Combination of at-large and district members	7	10	4	3	3	0	0	27
<b>TYPE OF ELECTION</b>								
Partisan elections	2	2	1	3	1	0	0	9
Nonpartisan primary	8	5	2	5	3	2	0	25
Election determined by majority of votes cast, with runoff	5	7	5	3	2	5	1	28
Election decided by plurality	8	25	37	75	112	92	138	487