

RESOLUTION ARB2015-0015

Approval of Administrative Rules Board Rules of Procedure

Whereas, County entities may adopt, amend, rescind, and administer rules on matters within their respective jurisdictions, as established by the County Charter, the County Code, or general law; and

Whereas, Section 205.09(A) of the Cuyahoga County Code establishes the Cuyahoga County Administrative Rules Board; and

Whereas, per Section 113.02(A) of the Cuyahoga County Code, a county entity seeking to adopt, amend, or rescind a rule shall submit a request, including the specific language of the rule, to the Clerk of the Administrative Rules Board in accordance with the procedures and deadlines established by the Board for such submissions; and

Whereas, per Section 113.02(G) of the Cuyahoga County Code, the Administrative Rules Board is given approval authority over rules promulgated by County entities based on a determination of: (1) whether the requesting entity has the authority to adopt, amend, or rescind the rule and (2) whether the proposed rule conflicts with the County Code; and

Whereas, the Administrative Rules Board administers its own Rules of Procedure;

NOW, THEREFORE, BE IT RESOLVED BY THE ADMINISTRATIVE RULES BOARD OF CUYAHOGA COUNTY, OHIO:

Section 1. The Administrative Rules Board's Rules of Procedure, as attached, are hereby enacted as part of the Cuyahoga County Administrative Code.

Section 2. This Resolution shall go into immediate effect and remain in full force and effect until rescinded or amended by the Board.

Section 3. It is found and determined that all formal actions of this Board concerning and relating to the passage of this Resolution were passed in an open meeting of this Board and that all deliberations of this Board that resulted in such formal actions were in meetings open to the public and in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

The foregoing resolution was duly adopted on June 18, 2015.


Clerk of the Board

Administrative Rules Board
Rules of Procedure



I. Authority

In January 2015, Ordinance 2014-0032 - the *Administrative Procedures Act*— was enacted into County Law. The Administrative Procedures act establishes the Administrative Rules Board and procedures for the publication of the Cuyahoga County Administrative Code. Ordinance 2014-0032 enacts Section 205.09 of the County Code - "Administrative Rules Board." Section 205.09(P) states that the Administrative Rules Board shall adopt its own rules of procedure.

II. Membership and Duties of Officers

A. Membership

Administrative Rules Board membership will consist of the following five (5) county officials:

1. the Director of Law,
2. the Director of Budget and Management,
3. the Deputy Law Director in charge of Risk Management
4. two attorneys employed by the County appointed by the Director of Law for one-year terms

The Director of Law shall serve as Chairperson of the Administrative Rules Board. If the Director of Law is absent from any meeting, the Board shall choose one of its members to chair that meeting. For purposes of this section, the Director of Law shall include his or her alternates.

B. Quorum

A quorum of the Administrative Rules Board shall consist of three (3) members attending personally or through their alternates.

C. Member Alternates

Alternates on the Administrative Rules Board shall be appointed as follows:

1. The Director of Law shall appoint a Deputy or other high-level attorney from the Department of Law to attend meetings of the Board as an alternate if he or she is unable to attend a meeting.
2. The Director of Budget and Management shall appoint an alternate from within the Office of Budget and Management to attend meetings if he or she is unable to attend a meeting.
3. The Director of Law shall appoint an attorney to attend meetings of the Board as an alternate if the Deputy Law Director in charge of Risk Management is unable to attend a meeting.
4. The Director of Law shall appoint an alternate for each appointed attorney-member of the Board. The appointment of alternates shall not disturb the legal-experience diversity on the Board

D. Clerk of the Board

The County Executive shall designate a staff person to serve as Clerk of the Administrative Rules Board. The Clerk shall have the following duties:

1. Publish notification of rules proposed for adoption, amendment or rescission
2. Receive commentary submitted by a member of the public, and disseminate to members of the Board
3. Publish meeting agendas and meeting notices

4. Record and publish minutes.

III. Meetings and Agenda

A. Regular Meeting Time

For the first year of its operations (2015), the Administrative Rules Board shall meet each week at 10:30 a.m. on Thursdays, and then at least once every two weeks thereafter. Unless otherwise notified, all meetings shall take place in Committee Room B on the 4th floor of the County Administration Headquarters building, 2079 E. Ninth Street, Cleveland, Ohio.

The Director of Law may instruct the Clerk of the Board to cancel any regular meeting for lack of sufficient business pending before the Board, by publishing a cancellation notice on the County's web site. Cancellation shall, whenever possible, be made at least 24 hours prior to the meeting.

B. Process for Special Meetings

The Administrative Rules Board may conduct special meetings at a time other than its regularly scheduled meeting times. In the event of an emergency, as determined by the Director of Law, the Board may conduct a meeting with less notice than that required under Section III(C) herein. For any special or emergency meeting, in addition to the notice requirements of Section III(C), the Clerk of the Board shall also send notice to all news media organizations that request to be notified of such meetings.

C. Publication of Agenda

The Clerk of the Administrative Rules Board shall publish the notice and agenda for each Board meeting on the County's web site no later than 6:00 p.m. on the second business day before the Board meeting.

D. Process for Consideration of Items Not on Agenda

The Board may amend the agenda and may also consider items not on the agenda by a vote of a majority of the members present either personally or through their alternates.

IV. Rule Approval Period

In submitting a rule for Board consideration, County entities may seek either temporary or permanent approval of the proposed rule.

A. A rule receiving temporary approval from the Board shall be in effect for a period no longer than 12 months, with the time period subject to the discretion of the Board.

B. A rule receiving permanent approval from the Board shall be in effect indefinitely, until a date-certain as specified in the approved rule, or until otherwise amended or rescinded by the County entity promulgating the rule.

V. Submission Process

A county entity seeking to adopt, amend, or rescind a rule shall submit a request to the Clerk of the Administrative Rules Board in accordance with the following procedures and deadlines:

A. Format of Request

The request shall be submitted electronically, via email, and include the title and specific language of the rule, the type of action to be taken - adoption, amendment, rescission, along with notification of any internal deadline(s) that apply to implementation of the proposed rule.

B. Deadline for Submittal of Rules for Consideration by the Board to the Clerk

1. Temporary Approval of a rule that impacts only County entities – 2:00 PM on the 9th calendar day prior to the intended meeting date for 1st reading.
2. All other rules - 2:00 PM on the 16th calendar day prior to the intended meeting date for 1st reading.
3. Any rules revised in response to comment received during a 1st reading review at a meeting of the Administrative Rules Board – 2:00 PM on the 3rd calendar day prior to the intended meeting date for 2nd reading.

The Clerk of the Board may, at any time, with the approval of the Board, correct typographical or grammatical errors appearing in rules submitted by County entities, but no such change shall in any way affect the substance or meaning of the rule or any part thereof or amendment thereto.

VI. Public Comment Period

A. Minimum Time Period for Publication

The Clerk of the Administrative Rules Board must publish notice of a County entity's request for rule approval on the County's website, and solicit public comment on the proposed action. The notice must be posted for the minimum time periods, as specified, prior to being placed on a Board meeting agenda for 1st reading:

1. Temporary Approval of a rule that impacts only County entities – 7 calendar days
2. All other rules – 14 calendar days

Rules revised after the 1st reading review at a meeting of the Administrative Rules Board shall be reposted for a period of 2 calendar days prior to being placed on a meeting agenda for a subsequent reading.

B. Content of Public Notice

The notice published by the Clerk must contain the following information:

1. Name of department promulgating the rule
2. Title and language of the rule
3. The contact information at which written commentary regarding the requested action may be submitted
4. A notice that any party seeking to submit any written commentary shall also provide a copy of its written commentary to the Clerk of the Board

5. The deadline, pursuant to the Board's Rules of Procedure, by which written public commentary shall be submitted
6. Notice that any person may also appear at a Board meeting and provide verbal commentary during the public comment period at the beginning of the Board meeting

Upon expiration of the public comment period, the Clerk shall place the request on the Administrative Rules Board's agenda for consideration.

VII. Order of Business

The business of the Administrative Rules Board shall be conducted in the following order:

1. Call to Order
2. Roll Call
3. Review and Approve Minutes
4. Public Comment Related to the Agenda
5. Items for 1st Reading
6. Items for 2nd Reading & Approval
7. Miscellaneous Business
8. Rules Currently Posted for Public Comment
9. Public Comment Unrelated to the Agenda
9. Adjournment

VIII. Procedural Rules

The guide for procedural issues not covered in these rules shall be *Robert's Rules of Order*, Newly Revised.

A. Introduction of Items for Consideration

All items requesting action will be introduced during the *Items for 1st Reading* portion of the meeting.

B. Presentation of Item Detail during 1st Reading

The item will be presented by a duly authorized representative from the requesting department. In his or her presentation, the representative shall, at a minimum:

1. describe the proposed rule and its impact on County operations or the general public
2. state the requested action (adoption, amendment or rescission)
3. respond to any commentary submitted by a member of the public

C. Board Discussions

Immediately following the presentation, Board members may ask questions of the presenter and engage in discussion. The item's presenter, or – at the discretion of the Chair – others in attendance at the meeting, may be included in the discussion.

D. Two Readings Required

Each requested action shall be read at two regular meetings of the Administrative Rules Board before being approved by the Board. The Board may waive the two-reading requirement by a vote of four members of the Board. At the direction of the Chair or his/her alternate, during discussion, any item may also be tabled for future consideration. An item may also be tabled by majority vote of Administrative Rules Board members present, provided that a quorum is present.

IX. Voting

A. Duty to Vote Except for Recusal

Every Member present shall vote on every matter that comes before the Administrative Rules Board, unless the Member has recused him/herself. A Member shall recuse him/herself from voting whenever the Member has a personal or monetary interest in any matter under consideration or when voting on the matter could for any reason constitute a violation of state or county ethics law.

B. Voting

The Chair, his/her alternate, or the Clerk of the Board (at the Chair's direction) will call the vote. He or she will submit a motion or ask for a motion to adopt the item. In order for the motion to be voted on, another member of the Administrative Rules Board must second the motion. The Chair or Clerk will ask for all members in favor of the motion to say "aye". He or she will then ask for those opposed to the motion to say "no". A motion to approve or disapprove any item before the Administrative Rules Board shall require the affirmative vote of any three (3) or more members.

Any Administrative Rules Board member may request to the Chair that the Board reconsider an item that has been acted upon during that meeting. Through a motion, a second, and vote, reconsidered items can be opened for discussion and voting.

C. Amendments

Amendments to items before the Board and parliamentary motions may be adopted by a majority of those present, provided that a quorum is present.

D. Motion Outcome

The Chair, his/her alternate, or the Clerk of the Board (at the Chair's direction) will announce the outcome of the vote.

X. Resolutions

Each action approved by the Administrative Rules Board shall be memorialized in a resolution. Each resolution shall recite the requesting department, the title of the rule under consideration, the action approved by the Board (adoption, amendment, or rescission), and the date of adoption. All resolutions shall be authenticated by the signature of the Clerk of the Administrative Rules Board.

XI. Open Meetings and Executive Session

A. Open meetings

All meetings of the Administrative Rules Board shall be open to the public and shall begin by providing time for public comment on matters that are on the agenda for that day. The Administrative Rules Board shall also provide time for public comment, either at that time or later in the meeting, on matters that may come before the Board in the future. The Administrative Rules Board may require presenters to register with the Clerk before speaking and may set a time limit on presentations, which may be extended at the discretion of the Chairperson.

B. Executive Session

The Administrative Rules Board may go into executive session to discuss and consider matters permitted to be discussed or considered in executive sessions under the Ohio Open Meetings Act. The published agenda for any meeting at which the Administrative Rules Board goes into Executive Session must include notice of the intent to go into Executive Session and a general description of the subject matter to be discussed. Prior to going into Executive Session, the Administrative Rules Board must approve a motion to go into Executive Session. That motion must be approved by a majority of members present by roll call vote, with a quorum being present, and the motion shall state the topic(s) to be discussed in Executive Session, and that no other topics may be discussed.

XII. Records, Minutes & Reports

A. Public Records Policy

The Administrative Rules Board shall be subject to all state laws and county ordinances concerning public meetings and public records.

B. Keeping and Publication of Minutes

The Clerk of the Administrative Rules Board shall promptly prepare and publish the minutes of each meeting of the Administrative Rules Board on the county's website, which shall in no case occur later than one week after each meeting.

C. Journal of the Administrative Rules Board

The Clerk of the Administrative Rules Board shall maintain a Journal of the Board, containing the notices, agendas, and minutes of all Board meetings, and any other items deemed appropriate by the Clerk of the Administrative Rules Board. The journal may be maintained electronically.

XIII. Decorum

A. Decorum Required

Visual Demonstrations Prohibited

No posters, placards, banners or signs shall be carried into any Board meeting.

B. Respectful Presence

Any applause, outburst, or demonstration during any Board meeting shall be permitted only when respectful toward all persons present and not disruptive of the proceedings at the meeting.

C. Taping & Recording Permitted

No one may film, tape, or record any meeting of the Administrative Rules Board in a way that disrupts or significantly interferes with the conduct of the meeting. Anyone who intends to film, tape, or record any meeting of the Administrative Rules Board is requested to register with the Clerk prior to the meeting on a written form that will be provided for this purpose.

XIV. Amendment

The Administrative Rules Board may revise or amend these Rules by adoption of a motion with at least three (3) affirmative votes. Proposed substantive amendments shall be read, either in full or by title, at two (2) Administrative Rules Board meetings before being adopted.

XV. Suspension of Rules

Any of these Rules may be suspended by vote of 2/3 of Administrative Rules Board Members present, provided that a quorum is present and no action is taken that is contrary to law or outside of the Administrative Rules Board's legal authority.