

RESOLUTION NO. 180943

A Resolution of the City of Gainesville, Florida amending and restating the rules of the City Commission; providing a repealing clause and providing an immediate effective date.

WHEREAS, under the provisions of Section 2.06 Gainesville Charter, the City Commission may determine its own rules of procedure; and

WHEREAS, the current rules of the City Commission were adopted by Resolution No. 190099 on July 18, 2019; and

WHEREAS, the Rules are hereby amended and restated to amend rules relating to citizen comment.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE:

SECTION 1. The following are hereby adopted rules of procedure until other such rules are adopted by the City Commission:

RULE 1. REGULAR MEETINGS

The Regular Meetings of the City Commission (hereafter the “Commission”) shall be held the first and third Thursday of every month commencing at 1:00 p.m., except when meeting as the Board of Trustees of the Employees' Pension Plan which meeting will immediately precede the Regular Commission meeting. If a meeting day falls on a legal holiday observed by the City, the Commission shall cancel or reschedule the meeting.

The following is the Order of Business at the Regular Meetings, except as changed by the Mayor (or other presiding officer) during the Agenda Management Meeting or by the Commission during the Adoption of the Consent and Regular Agendas:

1pm - Call to order afternoon session	
Invocation	
Adoption of Consent Items	Agenda items that will not be discussed
Adoption of Regular Agenda	
Early Public Comment	For items on the agenda, limited to 3 minutes per person. A person addressing more than one agenda item is limited to 5 minutes. A person speaking during Early Public Comment, waives the right to speak later in the meeting, except as provided in Rule 10.B.4. No Early Public Comment will be permitted for quasi-judicial agenda items.
General Public Comment	For items not on the agenda, limited to 3 minutes per person and not to exceed 30 minutes total
Business Discussion Items	Agenda items that will be discussed, including those moved from

	Consent
Commission Comment	

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4:30-5:30 Dinner Break

5:30 – Call to order evening session	
Pledge of Allegiance	
Proclamations/Special Recognitions – The general rule that there will be no applause, cheering, or outbursts of approval is waived during this portion of the meeting, as it is recognized that proclamations and special recognitions are often celebratory in nature.	
Early Public Comment	For items on the agenda, limited to 3 minutes per person. A person addressing more than one agenda item is limited to 5 minutes. A person speaking during Early Public Comment, waives the right to speak later in the meeting, except as provided in Rule 10.B.4. No Early Public Comment will be permitted for quasi-judicial agenda items.
General Public Comment	For items not on the agenda, limited to 3 minutes per person and not to exceed 30 minutes total and limited to individuals who did not speak at the 1pm general public comment period.
Resolutions	
Business Discussion Items	Agenda items that will be discussed, including those moved from Consent
Public Hearings (including Planning Petitions)	
Ordinances (second readings and then first readings)	
General Public Comment	For items not on the agenda, limited to 3 minutes per person and not to exceed 30 minutes total and limited to individuals who did not speak at the 1pm or 5:30pm general public comment periods.
Commission Comment	
10pm or earlier – adjourn	If later than 10pm, the Commission may waive the rules to extend the meeting or may schedule a date/time to continue the meeting

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RULE 2. SPECIAL MEETINGS and WORKSHOP MEETINGS

A Special Meeting or Workshop meeting may be requested either: (1) by vote of the Commission at any regular City Commission meeting or any General Policy Committee meeting; or (2) in writing on the form provided by the Clerk (which shall include a description of the business to be transacted) and signed by the Mayor, by two or more Commissioners, or by any Charter Officer.

The Clerk shall notify each member of the Commission of the date, time and business of the Special Meeting or Workshop Meeting.

1 The meeting date, time and location shall be published on the Notice of Meetings at least two
2 business days prior to the meeting. The Notice of Meetings shall state the business to be
3 transacted at a Special Meeting and no other business shall be transacted. The Notice of
4 Meetings may state the matters to be discussed at a Workshop Meeting, although any subject
5 matter may be discussed, except for pending matters where notice to affected parties is
6 required, such as pending planning petitions and quasi-judicial matters. The purpose of a
7 Workshop Meeting is for informal discussions and no business may be transacted at a
8 Workshop Meeting.

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10 Workshop Meetings and Special Meetings shall have Public Comment and Commissioner
11 Comment at the end of the meeting, time permitting.

12 13 **RULE 3. EMERGENCY MEETINGS**

14 Emergency Meetings may be requested when necessary by the Mayor, by three or more
15 members of the Commission or by any Charter Officer. A written call shall be issued that states
16 the date, time and the business to be transacted at the Emergency Meeting, and no other
17 business may be transacted. The Emergency Meeting may occur no sooner than two (2) hours
18 after the execution of the Call. The Clerk shall make reasonable effort to notify members of the
19 local news media (print and electronic) and the public.

20 21 **RULE 4. ATTENDANCE, QUORUM/VOTING, RECESS/ADJOURN and CANCELLATION**

22 All members of the Commission are expected to attend all scheduled meetings. Four (4)
23 members of the Commission shall constitute a quorum for the transaction of business, but a
24 smaller number may adjourn the meeting. Pursuant to Section 2.07 of the City Charter, unless
25 otherwise provided in the Charter or other law, a motion or a proclamation is adopted when
26 approved by vote of a majority of the members present, and an ordinance or resolution is
27 adopted when approved by the vote of four (4) or more members of the Commission.

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29 In accordance with Section 286.012, Florida Statutes, each member of the Commission who is
30 present shall vote on each matter, unless that member has a conflict of interest under state
31 ethics laws or, in the case of a quasi-judicial matter, is unable to be an impartial decision-maker.
32 Commissioners shall vote "yes" in support of a motion and vote "no" when voting not to
33 support a motion. Except in a Roll Call, silence by a member shall be recorded as a "yes" vote.

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35 The Commission at any meeting may recess or adjourn to a time certain for the transaction of
36 any business or specified business only, as may be determined by the Commission in taking
37 such action. Any meeting may be cancelled for cause (including, but not limited to, emergency
38 conditions, lack of agenda items, a quorum will not be present) by the Mayor and the Clerk of
39 the Commission. Otherwise, meetings may be cancelled by vote of the City Commission at any
40 Regular Meeting, Special Meeting, or General Policy Committee Meeting. The Clerk of the
41 Commission shall provide notice of the cancellation to all Commissioners.

1 **RULE 5. AGENDA and AGENDA MANAGEMENT MEETING**

2 Any request to place an item on the agenda for a Regular Meeting, Special Meeting, Workshop
3 Meeting, Standing Committee Meeting or Special Committee Meeting must be made by a
4 Member of the Commission or a Charter Officer. All such requests must be accompanied by a
5 written agenda item that provides the background and an explanation of the matter, a
6 recommendation, a fiscal note (if applicable) and any relevant and necessary back-up materials.
7 All agenda items and back-up submitted by any Member of the Commission, Charter Officer,
8 Committee or Board shall be delivered to the Clerk on or before 6:00 P.M. on the Wednesday of
9 the week prior to each Regular Meeting and by such dates/times as the Clerk sets for Special
10 Meetings, Workshop Meetings and Committee Meetings.

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12 The Mayor (or in the Mayor's absence, the Mayor Pro tempore) may hold an Agenda
13 Management Meeting at a regularly scheduled time at least one week prior to each Regular
14 Meeting. The Agenda Management Meeting is for the limited purpose of managing and
15 finalizing the agenda (for example, adding last minute items, moving items from consent
16 agenda to regular agenda or to a future agenda.) The meeting is not for discussing the
17 substance of agenda items. All Commissioner, City staff and public comment shall be limited to
18 agenda management. The Clerk shall prepare a final version of the agenda (together with all
19 back-up) by 5pm on the Friday prior to each Regular Meeting. Once finalized, the agenda
20 should not be further modified (except to add back-up to existing items or to add items that are
21 of an emergency or time sensitive nature) until the adoption of the consent and regular agenda
22 on the day of the meeting.

23 In addition, the Mayor (or in the Mayor's absence, the Mayor Pro tempore) may hold an
24 Agenda Management Meeting at a regularly scheduled time at least one week prior to each
25 General Policy Committee Meeting. The Agenda Management Meeting is for the limited
26 purpose of managing and finalizing the agenda (for example, adding last minute items or
27 moving items to a future agenda.) The meeting is not for discussing the substance of agenda
28 items. All Commissioner, City staff and public comment shall be limited to agenda
29 management. The Clerk shall prepare a final version of the agenda (together with all back-up)
30 by 5pm on the Friday prior to each General Policy Meeting. Once finalized, the agenda should
31 not be further modified (except to add back-up to existing items or to add items that are of an
32 emergency or time sensitive nature) until the adoption of the agenda on the day of the
33 meeting.

34 **RULE 6. PRESIDING OFFICER-ELECTION AND DUTIES**

35 The Mayor shall be the presiding officer and Chair of the Commission. At the first meeting held
36 after the annual swearing-in of newly elected members of the Commission, the Commission
37 shall elect one of its members as Mayor Pro tempore, who shall serve as the presiding officer in
38 the absence of the Mayor. In the absence of both the Mayor and the Mayor Pro tempore, the
39 Mayor may designate a Temporary Chair in writing prior to the start of the meeting, or the
40 Clerk shall call the Commission to order; whereupon a Temporary Chair shall be elected by the
41 members of the Commission present. Upon arrival of the Mayor or Mayor Pro tempore, the
42 Temporary Chair shall relinquish the chair.

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2 In the event the presiding officer of a meeting (whether that be the Mayor, Mayor Pro tempore
3 or Temporary Chair) must leave the meeting room, the presiding officer shall pass the gavel to
4 any Commissioner and by accepting the gavel, that Commissioner will lead the meeting until
5 the presiding officer returns to the meeting room.

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7 The presiding officer shall take the chair at the hour affixed for the meeting and call the
8 members of the Commission to order. The presiding officer shall preserve order and decorum
9 at all meetings, shall sign all ordinances and resolutions adopted by the Commission, shall
10 designate the seating arrangement at meetings of the Commission, and shall decide all
11 questions regarding the priority of business without debate.

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13 **RULE 7. COMMISSION COMMITTEES**

14 Committees shall meet at the call of the Chair at such time and place as is convenient to the
15 members of the Committee. All Committee meetings shall be included on the weekly notice of
16 meetings prepared by the Clerk of the Commission.

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18 The Clerk of the Commission shall serve as the Clerk for each Committee. The Clerk shall
19 prepare an agenda for each Committee meeting based on the agenda items submitted by a
20 Member of the Commission or by a Charter Officer. Each Committee Chair shall review his/her
21 respective Committee meeting agendas and agenda items. Upon review by the Committee
22 Chair, the Clerk will publish the agenda on the City's website.

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24 A. STANDING COMMITTEES: There are two standing Commission Committees – the Audit and
25 Finance Committee and the General Policy Committee, as described below. On April 30th of
26 each year, all outstanding referrals in each Standing Committee shall automatically sunset,
27 unless the Committee votes prior to April 30th of each year to retain a referral for further work.

28 (1) The **Audit and Finance Committee** shall consist of the Mayor, who shall serve as the
29 chair, and the Mayor Pro Tempore.

30 1. Nature of Responsibilities

31 The Audit and Finance Committee monitors internal and external audit affairs and
32 provides policy oversight and guidance to management regarding the financial affairs of
33 the City. These responsibilities include oversight of the City's internal accounting
34 control, periodic review of the internal audit function, selection of the independent
35 external auditor, review of the annual audit plans of both the internal and external
36 auditors, review of the Comprehensive Annual Financial Report (CAFR), auditor
37 communications, interim financial statements and all other audit and finance-related
38 matters.

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40 2. Scope of Responsibilities

41 The Audit and Finance Committee shall consider, review, and, where appropriate, make
42 recommendations to the City Commission on issues concerning the following matters:

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- a. Audit Related Issues
 - i. City Auditor Reports
 - ii. City Auditor annual budget
 - iii. City Auditor annual audit plan
 - iv. City Auditor long-range audit plan
 - v. External Auditor selection process (pursuant to Section 218.391, Florida Statutes)
 - vi. External Auditor contract
 - vii. External Auditor annual audit plan
 - viii. External Auditor progress and results
 - ix. All other audit-related matters as deemed appropriate

- b. Finance Related Issues
 - i. Financial management policies and procedures
 - ii. Capital Improvement Program
 - iii. Annual operating budget priorities
 - iv. Long-range financial plans
 - v. Progress reports on approved plans, including the annual budget
 - vi. Budget management policies
 - vii. Other financial matters as deemed appropriate

3. General Operating Procedures

- a. The Committee shall meet at the request of its members, the City Commission or the Charter Officers on an as-needed basis, but not less than once every quarter.
- b. The Committee agenda shall be prepared and transmitted to the members of the Committee and to all members of the City Commission 24 hours before the day and time of the meeting date.
- c. Agenda and Committee report preparation shall be the responsibility of the City Auditor, with assistance from the other Charter Officers as requested.

(2) The **General Policy Committee** shall consist of the Mayor and all Commissioners. The Mayor, or in his/her absence the Mayor Pro tempore, shall be the Chair of this Committee. The purpose and intent of this Committee is to allow the Mayor and Commissioners, as an entire deliberative body, to discuss general policy matters that are referred to this Committee during a Regular or Special Commission Meeting. The Committee may take action on the matters referred (such as, but not limited to, directing the Mayor to send a letter, directing staff to

1 conduct further research, or directing the City Attorney to draft an ordinance.) However, this
2 Committee may not:

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- 4 • discuss or take action on: any quasi-judicial matters, matters that are required by law to
5 be publicly advertised or conducted during a Regular or Special City Commission
6 Meeting;
- 7 • hold any public hearings required by law; or
- 8 • adopt any resolutions or ordinances.
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10 B. SPECIAL COMMITTEES:

11 The Commission may appoint such Special Committees as it deems necessary to address
12 particular issues. All Special Committees will be appointed for a limited term and will complete
13 their assigned work within that term, unless further extended by the Commission.

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15 **RULE 8. RULES OF DEBATE**

16 The presiding officer may move, second and debate, subject only to such limitations of debate
17 as are enforced by these rules on all members. If the presiding officer desires to make a motion
18 or second a motion, the presiding officer shall relinquish the chair to a member as the presiding
19 officer shall designate until he/she has finished his/her motion or second.

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21 No motion shall be debated or put to a vote unless seconded. No member of the Commission
22 may reserve the priority to make a motion. If a motion is made to vote immediately (or move
23 the previous question), it shall be put in this form: "I move that we vote immediately"; or "I
24 move the previous question(s)." This motion can apply to any immediately (or series of)
25 pending debatable or amendable motion(s). Further, any motion to vote immediately: (1)
26 must be seconded; (2) is not debatable; (3) cannot interrupt a speaker; (4) requires a two-thirds
27 vote (because it prevents or cuts off debate); (5) takes precedence over all subsidiary motions
28 except one postponed temporarily; and (6) can have no motion applied to it except withdraw.
29 All motions or amendments thereto shall be reduced to writing, by the Clerk, upon request of a
30 member of the Commission.

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32 Each member desiring to speak shall address the presiding officer and, upon recognition by the
33 presiding officer, shall confine his/her remarks to the question under debate, avoiding all
34 personalities and indecorous language. A member, once recognized, shall not be interrupted
35 when speaking unless it be to call said member to order, then the member shall cease speaking
36 until the question or order is determined by the presiding officer without debate and, if in
37 order, said member shall be at liberty to proceed.

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39 After the decision of any question, it shall be in order for any member to move reconsideration.
40 If the motion to reconsider is approved by a majority of those members present, the item shall
41 be placed on a future agenda for reconsideration, subject to legal, contractual, fiscal, quasi-
42 judicial and other constraints as staff may advise the Commission. If the Commission does not

1 specify the future date when the item will be heard, the Mayor, in consultation with the
2 Charter Officers, will determine the date.

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4 A Commissioner may request, through the presiding officer, the privilege of having his/her
5 written statement on any subject under the consideration by and presented to the Commission
6 entered in the minutes. If the Commission consents thereto, such statement shall be entered
7 in the minutes.

8 9 **RULE 9. COMMISSION MINUTES and RECORDS**

10 The Clerk shall submit minutes of meetings for approval as timely as possible. Such minutes
11 may be approved on the Consent Agenda, if the Clerk has provided a copy of the minutes in the
12 agenda backup. After approval, the Clerk shall publish the minutes on the City's website. Every
13 petition, communication, or other paper presented in writing to the Commission at any
14 Commission or Committee meeting shall be retained (or a copy thereof) by the Clerk.

15 16 **RULE 10. PERSONS APPEARING BEFORE THE COMMISSION**

17 **A. Public Comment Encouraged.**

18 The City Commission recognizes the importance of protecting the right of all persons to express
19 opinions of the operation of city government and encourages participation in the local
20 government process. The Commission will not prohibit public criticism of the policies,
21 procedures, programs or services of the commission, or the acts or omissions of the
22 Commission. Individuals' expressions that go beyond the role and authority of the Commission
23 have no privilege or protection. While the Commission recognizes the rights of individuals' free
24 speech, this meeting is a limited public forum in which the Commission must conduct its
25 business meeting. The Commission recognizes the necessity for conducting orderly and
26 efficient meetings in order to complete City business in a timely manner and has adopted these
27 rules to balance the rights of individuals to speak on governmental issues, while conducting its
28 business meeting.

29 **B. Public Comment.**

30 **1. General Public Comment**

31 General Public Comment is an opportunity for individuals to address the Commission on issues
32 which are not located on other portions of the printed agenda. Each general comment period is
33 limited to 30 minutes total. The Commission may establish more than one general public
34 comment period, however an individual may provide general public comment only once during
35 a Commission meeting.

36 **2. Early Public Comment on Agenda Items**

37 Early Public Comment is an opportunity for individuals to address the Commission on agenda
38 items at the beginning of the meeting. During early public comment, individuals will be
39 permitted to comment on any or all items on the agenda. Early Public Comment is provided as
40 a courtesy for individuals who cannot or do not wish to attend the remainder of the meeting.

1 As such, by participating in Early Public Comment, the individual waives their ability to speak
2 during regular public comment on agenda items. Early Public Comment is not available for
3 quasi-judicial agenda items.

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5 **3. Public Comment on Agenda Items**

6 The Commission will hear from individuals on agenda items brought for a Commission vote.
7 Public comment will not be permitted on purely informational or procedural agenda items.
8 Individuals commenting on agenda items shall address only the agenda item being considered.

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10 Individuals wishing to speak during general public comment, early public comment or on
11 agenda items will be required to register prior to speaking. Individuals wishing to speak on an
12 action item during commission comment are not required to register.

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14 **4. Commission Comment**

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16 Public comment is invited for items on which the commission takes action during commission
17 comment. Each person is limited to 3 minutes per action item.

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19 **5. Written Public Comment on Agenda Items**

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21 Individuals may also provide written comment on agenda items. Written comments will be
22 incorporated in the public record for the meeting as are spoken comments.

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24 **6. Use of City Projection and Overhead**

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26 Speakers at the podium addressing the Commission may use the City's overhead projection
27 system, as part of their comment as long as they are not obscene and do not otherwise disrupt,
28 delay, or interrupt the proceeding.

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30 **7. Time Limitations on Speech**

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32 During each City Commission meeting:

- 33 a. each Individual is limited to a total of 3 minutes of speech during general
34 comment;
35 b. each Individual is limited to 3 minutes (or 5 minutes if addressing more than one
36 agenda item) of speech during early public comment.

37 If an individual does not participate in early public comment, the individual is limited to 3
38 minutes of speech for each item on which the Commission will take action.

39 Other time limits may be established by the presiding officer based on the number of
40 participants. In addition, the presiding officer may adopt a time limitation to provide equal
41 time for opponents and proponents speaking to any particular issue.

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C. Procedures for Public Comment.

The Clerk will call each registered speaker to the podium to address the Commission. After being recognized, the speaker shall:

- 1. give their name in an audible tone of voice;
- 2. limit their address to comments as required by Rule 10.B.;
- 3. limit the address to any time limitation established;
- 4. address all remarks to the Commission as a body and not to any member thereof, nor to any member of staff, nor to any member of the public; and
- 5. obey the directions of the presiding officer.

D. Conduct of Members of the Public.

No person other than a member of the Commission and the person having the floor shall be permitted to enter into any discussion, either directly or through a member of the Commission, without permission of the presiding officer.

No question shall be asked except through the presiding officer.

Members of the public are not permitted to possess food, drink, props, signs, posters, or other similar material in the meeting room.

E. Interruption of Meeting.

1. Persons demonstrating disruptive behavior at meetings or persons violating established rules of order will be called to order by the presiding officer. If such conduct continues, the presiding officer may do any or all of the following:

- a. call a recess,
- b. request the removal of such person(s) upon a finding of “disruptive behavior,”
- c. adjourn the meeting if determined to be the appropriate action, or
- d. take such other appropriate action as permitted by law.

2. Defining Disruptive Behavior.

a. A speaker may be removed upon a finding by the presiding officer that the speaker’s conduct causes a disruption of the meeting. Disruptive behavior of a speaker during the meeting usually takes one of two forms:

- i. Refusal to confine the speech to the subject matter being addressed; or
- ii. Refusal to conform to time limits on speaking.

1 b. Disruptive activity of persons within the meeting room and the lobby
2 includes any conduct that significantly violates generally or specially established rules of
3 order and truly disrupts the meeting. Examples include but are not limited to:

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5 i. Violent or tumultuous conduct threatening the safety of another;
6 ii. Conduct creating danger to another's property or person;
7 iii. Provoking or engaging in a fight;
8 iv. Use of words that may threaten or outrage others;
9 v. Using obscene, profane, or vulgar language;
10 vi. Refusal to leave podium when requested to do so; or
11 vii. Outbursts of approval or disapproval, jeers or heckling which interrupt a
12 speaker or the deliberation of the Commission.
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14 **F. Enforcement of Order.** The presiding officer may enforce the rules of decorum. Any
15 commission member may request the presiding officer to enforce the rules of decorum upon a
16 motion and a majority vote by commission. In the event the presiding officer orders the
17 removal of an individual or individuals, the presiding officer will take the following steps:

- 18 1. Warn the individual that their conduct is disrupting the meeting and if the
19 conduct continues, the individual will be removed from the meeting.
20 2. If the conduct continues, revoke the individual's right to attend or speak at the
21 meeting and direct the sergeant-at-arms to remove the individual from the meeting.
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23 **G. Sergeant-At-Arms.** The City Manager or designee shall be sergeant-at-arms at commission
24 meetings and shall attend all regular, special and workshop meetings. The sergeant-at-arms
25 will carry out all orders and instructions given by the presiding officer for the purpose of
26 maintaining order and decorum at the commission meeting.
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28 **H. Removal from Meeting.**
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30 Upon instructions of the presiding officer, it shall be the duty of the sergeant-at-arms to direct
31 an officer to escort or remove any person who disrupts the meeting from the commission
32 chambers, the lobby, or city hall. The sergeant-at-arms or designee should explain the law on
33 trespass and Section 871.01, Florida Statutes, Disturbing Schools, and Religious and Other
34 Assemblies. The sergeant-at-arms or designee will advise the individual that there are alternate
35 means of presenting the individual's views. If the person refuses or resists removal, the person
36 may be placed under arrest.
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38 **I. Agenda Statement.**
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40 The following statement will be included on all meeting agendas: "Individuals are encouraged
41 to participate in City of Gainesville meetings. In general, speakers will be limited to 3 minutes
42 for general public comment once during the meeting. Speakers who wish to participate in early
43 public comment will be limited to 3 minutes to speak on one agenda item or 5 minutes if they

1 wish to speak on several agenda items. If speakers do not participate in early public comment,
2 speakers will be limited to 3 minutes per agenda item. The City of Gainesville encourages
3 civility in public discourse and requests that speakers direct their comments to the Chair. Signs,
4 props, and posters are not permitted in the meeting room.”
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6 **RULE 11. ORDINANCES and RESOLUTIONS**

7 All Ordinances and Resolutions shall be introduced in writing with a complete copy filed with
8 the Clerk in the agenda backup. No Ordinance shall be adopted on final reading until notice as
9 required by law has been published. All Ordinances shall be signed by the Mayor or Mayor Pro
10 Tempore, attested by the Clerk of the Commission and approved as to form and legality by the
11 City Attorney.
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13 **RULE 12. OTHER DOCUMENTS FOR EXECUTION**

14 All documents to be executed by the Mayor and Clerk of the Commission shall have first been
15 submitted to the City Attorney's Office for approval as to form and legality before placing on
16 the agenda and should be formatted for immediate signature after authorization of the
17 execution.
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19 **RULE 13. QUASI-JUDICIAL ACTIONS**

21 **A. Quasi-Judicial Hearings before the Commission.**

22 The quasi-judicial hearings before the Commission shall be either formal or informal hearings.
23 A formal quasi-judicial hearing shall be conducted in accordance with Section C of this Rule.
24 An informal hearing shall be conducted in accordance with Section D of this Rule.
25

26 **B. Request for Formal Hearing.**

27 All persons entitled to actual written notice of a quasi-judicial matter before the Commission
28 may request a formal hearing by filing with the Clerk a written request before the close of
29 business at least seven (7) days prior to the Commission meeting when the matter is scheduled
30 to be heard. Persons who are not entitled to actual written notice but believe they are an
31 "affected party", as defined in this Rule, may request a formal hearing and determination of
32 affected party status by filing with the Clerk a written request for a formal hearing and an
33 application for affected party status as provided this rule at least seven (7) days prior to the
34 Commission meeting when the matter is scheduled to be heard. Failure to timely file a request
35 for a formal hearing shall set the matter for an informal quasi-judicial hearing.
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37 **C. Formal Quasi-Judicial Hearings.**

38 The Commission shall make a determination of affected party status and thereafter, the Clerk
39 shall collectively swear-in all parties who intend to present/testify at the hearing. An affected
40 party is any person who is entitled to actual written notice of the quasi-judicial matter. An
41 affected party who is not entitled to actual written notice but who believes that they have a
42 special interest or would suffer an injury distinct in kind and degree from that shared by the
43 public at large may request affected party status by filing an application, as provided in Part B of
44 this Rule. The Commission will consider the facts articulated in the application and the decision

1 of the Commission shall be final. In order to participate in the formal hearing, all affected
2 parties shall complete the form prescribed by the Clerk of the Commission, stating their name
3 and address and other pertinent information, and whether they support or oppose the matter
4 before the Commission. The form shall be delivered to the Clerk at the commencement of the
5 hearing.

6 The order of presentation for the hearing, with corresponding time limits, is set forth below.
7 The time limits may be modified by the Commission on its own motion or upon request of a
8 party to the proceedings. Said request shall detail the modified time desired and the subjects
9 to be discussed during the additional time. A request for a modification of time should be
10 considered by the Commission to assure all parties have an opportunity to participate, but
11 without undue repetition and delay.

12	Order	Maximum Time Limit (minutes)
13	a. Determination of affected party status	
14	b. Swearing-in of all parties	
15	c. Disclosure of inadvertent ex-parte communication	
16	d. Introduction of the matter by staff	3
17	*e. Petitioner	20
18	*f. Staff presentation	10
19	*g. Affected Party for (if any)(per person)	10
20	*h. Affected Party against (if any) (per person)	10
21	*i. Rebuttal (Petitioner/Staff)	5
22	j. Closing by Petitioner, Staff and Affected Parties (per person)	3
23	k. Public comment (per person)	3
24	**l. Deliberation and vote of the Commission	

25 *Witnesses may be presented during parts e-i of the hearing and the witnesses may be cross
26 examined by the Petitioner, Staff and Affected Parties. However, cross examination is limited
27 to 10 minutes per witness. In addition, the Commission may call any witness it deems necessary
28 to reach a complete and informed decision. The examination of witnesses shall be conducted
29 under oath by direct examination on matters which are relevant and material to the issue or
30 issues before the Commission. After the conclusion of direct examination, the witness may be
31 cross-examined by another party, or a Commissioner. All questions shall be directed through
32 the presiding officer and the witness shall answer the question unless the presiding officer
33 deems the question to be irrelevant or immaterial. Any commissioner or party may raise
34 evidentiary objections. The inquiry under cross-examination shall be limited to matters raised
35 in the direct examination of the witness. No re-direct shall be allowed unless requested by a
36 party stating the desired area of inquiry and that request is approved by the presiding officer. If
37 re-direct is allowed, it shall be limited to questions of the witness on issues raised in the cross-
38 examination. This provision shall not prohibit a member of the Commission from questioning
39 any person on matters relevant to the matter.

40 **In part l. of the hearing, the Commission shall deliberate a motion, if necessary, and reach a
41 decision by voting on the motion. In reaching its decision, the Commission may only consider

1 evidence presented at the hearing and base its decision on the competent, substantial evidence
2 of record. The Commission shall orally issue an order at the conclusion of the hearing, unless
3 continued. After the meeting, the City Attorney shall prepare a written order stating, at a
4 minimum, whether the petition was granted or denied and if granted, specifying any
5 conditions, requirements or limitations on the approval of the matter. The written order shall
6 be presented to the Commission for approval at a Special Meeting or at the next Regular
7 Meeting of the Commission. Upon approval, the presiding officer shall execute and the Clerk
8 shall attest the order. Executed copies of the order shall be hand delivered or mailed to the
9 petitioner and affected parties.

10 **D. Informal Quasi-Judicial Hearings.**

11 If no person files a timely request for a formal hearing, the matter shall be set for an informal
12 hearing. Cross-examination is not permitted and deemed waived by all persons or parties. This
13 provision does not prohibit a member of the Commission from questioning any person relevant
14 to the matter. Any person may speak for or against the matter in the public comment portion if
15 they complete a registration card at the meeting as provided by the Clerk. The presiding officer
16 may limit the time of any portion of an informal hearing to avoid unnecessary repetition and
17 delay. The vote of the Commission shall constitute an oral order, no written order will be
18 issued. The order of presentation for the hearing is as follows:

- 19 a. Disclosure of inadvertent ex-parte communications
- 20 b. Staff presentation
- 21 c. Petitioner or Applicant
- 22 d. Public comment
- 23 e. Deliberation and vote of the Commission

24
25 **E. Representation of Parties.**

26 Any party may be represented by an attorney. If an attorney represents a party, the attorney
27 shall complete the form provided by the Clerk and identify the person or persons they
28 represent and whether their client supports or opposes the matter before the Commission.
29 The form shall be delivered to the Clerk at the commencement of the hearing.

30 **F. Evidence.**

31 Evidence before the Commission shall include, but not be limited to, an analysis which includes
32 the consistency with the City's adopted codes, rules, policies or plans, as applicable, and how
33 the matter does or does not meet the requirements of such codes, rules, policies and plans and
34 other applicable laws. Written reports and any other documentary evidence shall become a
35 part of the record. Evidence may be presented through oral testimony or written documents or
36 both. Any member of the Commission may seek advice from the City Attorney on questions of
37 evidence. During the hearing, no one may present testimony or evidence which is unduly
38 cumulative or repetitious of previously presented testimony or evidence by another party.

39 **G. Continuances.**

1 The Commission may, in its discretion, at any time during the hearing, continue the hearing,
2 and may request further information from any party.

3 **H. Ex Parte Communications.**

4 The Commission has chosen to prohibit ex-parte communications (i.e., a verbal or written
5 communication with a Commissioner received outside of the quasi-judicial hearing) in
6 connection with any quasi-judicial hearing before the Commission. However, it is recognized
7 that members of the Commission may, from time to time, receive or engage in inadvertent ex-
8 parte communications. The following procedures are provided to remove any presumption of
9 prejudice. Should an ex parte communication be received by an individual commissioner these
10 procedures shall be followed:

- 11 1. Written Communications - If a member of the Commission receives a written "ex parte"
12 communication relating to a quasi-judicial matter coming before the Commission, the
13 member should transmit the communication to the Clerk for inclusion in the official
14 records. These communications shall be forwarded to the parties as soon as practicable
15 before the hearing.
- 16
17 2. Oral Communications - As soon as it becomes apparent that an oral communication
18 pertains to a quasi-judicial matter coming before the Commission, the member of the
19 Commission should explain to the person that the communication is prohibited and
20 that he or she is required to end the communication on that subject.
- 21
22 3. At the hearing, each member of the Commission should disclose any inadvertent ex-
23 parte communications and state for the record whether the member is able to be an
24 impartial decision-maker. If not so able, the member should abstain from participating
25 and voting in the quasi-judicial hearing. Any party may question, through the presiding
26 officer, a member of the Commission about any ex parte communications.

27
28 **RULE 14. COMMISSION CONDUCT**

29 During commission meetings, commissioners may not advocate for or against anyone running
30 for office. Members of the commission may not advertise for-profit businesses during
31 commission meetings.

32
33 **RULE 15. WAIVER OF THESE RULES**

34 These Rules (except those that are required by law or those that involve notice) may be waived
35 by a 2/3rds vote of the members present at a meeting.

36
37 **SECTION 2.** All resolutions in conflict herewith are repealed. This resolution shall become
38 effective immediately upon adoption and will remain in effect until amended or repealed.

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Passed and adopted this 5th day of December, 2019.



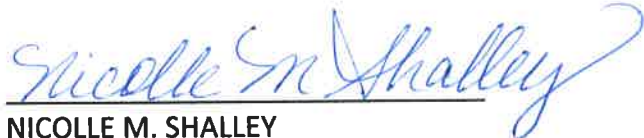
LAUREN POE
MAYOR

Attest: *Marie P. Kesster*
Deputy Clerk



OMICHELE G. GAINEY
CLERK OF THE COMMISSION

Approved as to form and legality:



NICOLLE M. SHALLEY
CITY ATTORNEY