

**RULES OF THE DEVELOPMENT REVIEW BOARD - CITY OF GAINESVILLE, FLORIDA**

*Approved by the City Commission and effective on \_\_\_\_\_.*

**ARTICLE I  
Objectives**

The objectives and purposes of the Development Review Board ("Board") are those powers and duties delegated to the Board by the Charter Laws and Code of Ordinances of the City of Gainesville.

**ARTICLE II  
Membership**

1. **Number of Members; Quorum.** The Board shall consist of seven members appointed by the City Commission. A quorum shall consist of four members. A majority vote of the quorum present shall be required for the transaction of all business.
2. **Term.** Each member shall be appointed for a term of three years and may hold office until a successor has been appointed and qualified. A member may serve consecutive three-year terms. Members shall serve on only one permanent board or committee at a time.
3. **Attendance.** Any appointee to the Board shall be automatically removed upon filing with the Clerk of the Commission an attendance record that indicates the Board member has failed to attend four or more consecutive meetings or the member's overall attendance record is less than 66.66% for the six most recent Board meetings at which voting occurred. Attendance means presence at a meeting for a duration of at least 50% of the entire meeting time as verified by the Board secretary on the attendance record. Board members may be granted one excused absence per calendar year for either a medical reason or a professional or educational obligation. Board members shall notify the Board secretary of an excused absence prior to the meeting, if practicable.
4. **Vacancies.** Vacancies shall be filled by appointment of the City Commission for the unexpired term of any member whose office becomes vacant.

**ARTICLE III  
Officers**

1. **Officers.** The officers of the Board shall consist of a Chair and Vice-Chair.
2. **Chair.** The Chair shall preside at all meetings and hearings of the Board and shall decide all points of order and procedure. The Chair shall have the privilege of discussing all matters before the Board and voting thereon.
3. **Vice-Chair.** The Vice-Chair shall act for the Chair in the Chair's absence. In the absence of the Chair and Vice-Chair, the quorum present shall select a Chair for the meeting.
4. **Election of Officers.** The Board shall annually elect officers to serve for a one year term at the pleasure of the Board or until a successor shall take office. Nomination of officers shall be made from the floor at a meeting in October of each year prior to the expiration of the term of the Chair and Vice-Chair, and the elections shall follow immediately thereafter. The Chair and Vice-Chair shall be limited to serving two consecutive one-year terms. Once an intervening year has passed, a

member shall become eligible to serve again as Chair or Vice-Chair. Vacancies in office shall be filled immediately by regular election procedure.

#### **ARTICLE IV Secretary**

**Secretary.** The City Manager or designee shall appoint a city employee to serve as Secretary to the Board. The Secretary shall provide notice of each Board meeting to the Clerk of the Commission at least seven calendar days prior to the meeting, shall prepare meeting agendas, shall make or cause to be made the minutes of each meeting, shall verify the attendance of Board members at each meeting and file the attendance record with the Clerk of the Commission as soon as practicable, and shall attend to correspondence of the Board.

#### **ARTICLE V Meetings**

- 1. Regular Meetings.** The Board shall meet once per month, normally on the second Thursday of every month at 6:30 p.m., and at such additional times as deemed necessary for proper performance of its duties. If the Board has not completed its agenda by 10:30 p.m., the Board may vote to either extend the meeting or continue the meeting to a future date.
- 2. Special Meetings.** Special meetings may be called by the Chair upon the written request of four Board members. The notice of such a meeting shall be posted a minimum of 72 hours prior to the meeting and shall specify the purpose of the meeting, and no other business may be considered except by unanimous consent of the Board. The Secretary shall notify all Board members of any special meetings.
- 3. Voting.** Voting shall be by roll call. The roll call shall be in alphabetical order with the first name called rotating with each motion upon which a vote is called. In all cases, the Chair shall vote last. A record of the roll call shall be kept as a part of the minutes.

#### **ARTICLE VI Order of Business**

The order of business at regular meetings shall be:

- 1. Roll Call**
- 2. Approval of Agenda**
- 3. Approval of Previous Meeting's Minutes**
- 4. Requests to Address the Board**
- 5. Unfinished Business**
- 6. New Business**
- 7. Board Comment**
- 8. Adjournment**

**ARTICLE VII**  
**Legislative Matters**

1. **Legislative Decisions.** Any matter before the Board regarding general policy or law that generally applies to a broad group of citizens is a legislative decision. The Board Secretary or the City Attorney's Office shall advise the Board regarding any decisions before the Board that do not follow this general rule or where it is unclear whether a decision is legislative or quasi-judicial.
2. **Procedure.** The Board shall conduct legislative matters according to the following procedure. The time limits set forth herein may be extended upon request, and should be considered by the Board to assure a full and fair opportunity to participate without undue repetition and delay.

	<b>Order of Presentation</b>	<b>Time Limit (mins)</b>
<b>1</b>	Introduction (by Board member or city staff)	No limit
<b>2</b>	Staff presentation	10
<b>3</b>	Applicant Presentation (if applicable)	10
<b>4</b>	Public comment	3-5 per person
<b>5</b>	Deliberation and vote of the Board	No limit

**ARTICLE VIII**  
**Quasi-Judicial Hearings**

1. **Quasi-Judicial Hearings.** Any decision of the Board that is limited to making a determination on whether a specific application meets existing regulations or requirements, as opposed to making a decision regarding general policy or law, shall be conducted as a quasi-judicial hearing. The review of development plans is one example of a quasi-judicial decision. The Board Secretary or the City Attorney's Office shall advise the Board regarding any decisions before the Board that do not follow this general rule or where it is unclear whether a decision is legislative or quasi-judicial.
2. **Informal and Formal Quasi-Judicial Hearings.** A formal hearing is administered with certain formalities, whereas an informal hearing is conducted with an abbreviated process. The Board shall administer all quasi-judicial hearings as informal hearings unless a formal hearing is requested by an affected party by submitting a city-approved form no less than seven days prior to the date of the hearing. Regardless of whether a hearing is administered as informal or formal, the Board's decision-making criteria and the legal effect of any decision are the same.
3. **Burden of Proof; Competent Substantial Evidence.** The applicant has the responsibility of demonstrating by "competent substantial evidence" that the application meets the applicable standards. If the applicant meets this burden, the responsibility then shifts to any persons seeking to deny the application to show by competent substantial evidence that the application does not meet the applicable standards. Competent substantial evidence may be submitted to the record before the Board in written form prior to the hearing, or in written form or by oral testimony at the hearing.

"Competent substantial evidence" is such evidence that may establish a substantial basis from which the fact at issue can be reasonably inferred, or material and relevant evidence that a reasonable mind could accept as adequate to support a conclusion. The opinions and recommendations of professional city staff are deemed expert testimony and constitute competent

substantial evidence. Citizen testimony during the public comment portion of a hearing may constitute competent substantial evidence if it is fact-based and not a mere generalized statement of support or opposition. In addition, testimony or other evidence that is irrelevant or immaterial to the issue to be decided by the Board is not competent substantial evidence and is therefore inadmissible.

Any Board member and any affected party may raise an objection as to any irrelevant or immaterial testimony or evidence or as to any testimony or evidence that is unduly cumulative or repetitious, and the Board shall make rulings on objections.

4. **Procedure.** The Board shall conduct quasi-judicial hearings according to the following procedure. The Board may extend the time limits set forth herein upon request of an affected party, with consideration given by the Board to assure all affected parties have a full and fair opportunity to participate without undue repetition and delay.

	<b>Order of Presentation</b>	<b>Informal Hearing Time Limit (mins)</b>	<b>Formal Hearing Time Limit (mins)</b>
1	Introduction	-	3
2	Affected party determination	-	No limit
3	Disclosure of ex-parte communications	No limit	No limit
4	Swearing in of affected parties and witnesses	-	No limit
5	Staff presentation	10	10
	Cross-examination by affected parties	-	10
6	Applicant presentation	10	20
	Cross-examination by affected parties	-	10
7	Affected party for approval	-	10 per person
	Cross-examination by affected parties	-	10
8	Affected party against approval	-	10 per person
	Cross-examination by affected parties	-	10
9	Staff rebuttal	-	5
	Cross-examination by affected parties	-	10
10	Applicant rebuttal	-	5
	Cross-examination by affected parties	-	10
11	Public comment	3-5 per person	3-5 per person
12	Deliberation and vote of the Board	No limit	No limit

- a. **Introduction (formal hearing only).** A member of city staff shall introduce the hearing by including a brief description of the petition before the Board. This introduction shall not be considered as evidence in the proceeding, and the members of city staff presenting the introduction shall not be subject to cross-examination by any affected party.
- b. **Affected Party Determination (formal hearing only).** The following persons may participate as an affected party in a quasi-judicial hearing: 1) the applicant; 2) city staff; and 3) other affected parties. Other affected parties may include persons who are either: 1) entitled to mailed notice of the petition before the Board in accordance with the Land Development Code; or 2) have

applied for such status no less than seven days prior to the hearing and have been determined by the Board to be an affected party because the person may, depending on the result of the quasi-judicial hearing, suffer an injury distinct in kind and degree from that shared by the general public.

Affected parties may be represented by an attorney. Any attorney that represents an affected party shall complete a form prescribed by the board and identify the person(s) they represent and whether their client supports or opposes approval of the petition. If not submitted in advance, the form shall be submitted to the Secretary at the proceeding.

Although the general public may not participate as an affected party, quasi-judicial hearings shall provide an opportunity for public comment.

- c. **Disclosure of Ex-parte Communications.** Board members shall not participate in any ex-parte communications. Ex-parte communications are communications made outside of a public hearing between a Board member and any affected party (except city staff) regarding a quasi-judicial item that may foreseeably come before the Board for consideration. If ex-parte communications nevertheless do occur, the Board member shall cease the communication and then, at the applicable quasi-judicial hearing, shall disclose all ex-parte communications that have occurred. Affected parties may examine each Board member about these communications.
  - 1) *Written communications.* If a Board member receives a written ex-parte communication, the member shall transmit the item to the Secretary for inclusion in the official record. These communications shall be made available to the affected parties as soon as practicable before the hearing.
  - 2) *Oral communications.* As soon as it becomes apparent that an inadvertent oral ex-parte communication has occurred, the Board member shall explain to the person that the communication is improper, and that he or she is required to end the communication on that subject. When that item comes before the Board at a public hearing, the Board member shall disclose and provide the complete substantive details of the communication.
- d. **Swearing In (formal hearing only).** All affected parties and witnesses shall be collectively sworn by the Secretary or designee.
- e. **Cross-Examination of Witnesses (formal hearing only).** After the conclusion of presentations/testimony, witnesses may be cross-examined by affected parties or board members. The inquiry under cross-examination shall be limited to matters raised in the witness' presentation/testimony. No re-direct shall be allowed unless requested by an affected party stating the desired area of inquiry, and such request is approved by the Board. If re-direct is allowed, it shall be limited to questions of the witness on issues raised in the cross-examination. This provision shall not limit a Board member from questioning any person on matters relevant to the petition before the Board.
- f. **Public Comment.** Any members of the public who were not an affected party to the quasi-judicial hearing may speak and present their testimony to the Board during their allotted time. No affected party or witness shall be allowed to speak during the public comment portion of the hearing.
- g. **Continuances.** The Board may continue the hearing in its discretion at any time during the hearing, and may request further information from any affected party.

- h. **Board Deliberation and Vote.** The Board shall deliberate and reach a decision by voting on a motion. In reaching its decision, the Board may only consider the competent substantial evidence of record and shall apply such evidence to the applicable and correct decision-making criteria.
- i. **Board Oral Order.** The Board shall orally issue an order and state whether the applicant's request meets the applicable decision criteria.
- j. **Board Written Order (formal hearing only).** The Board's order shall be reduced to writing and shall include findings of fact and conclusions of law and state whether the petition is granted or denied or granted with conditions. The order shall also specify any conditions, requirements or limitations on the approval of the petition. The written order shall be presented to the Board for approval at a special meeting or at the next regular meeting of the Board. The Chair and the Secretary shall execute the written order immediately after it is approved by the Board. Executed copies of the order shall be mailed to the applicant and all affected parties.

#### ARTICLE IX Criteria for Decisions

1. **Text Amendments – Comprehensive Plan or Land Development Code.** (*Legislative*) Per Land Development Code Section 30-3.4, the Board may make recommendations to the City Plan Board regarding amendments to existing or the addition of new land development regulations in either the Comprehensive Plan or Land Development Code.
2. **Development Plan Review.** (*Quasi-Judicial*) Per Land Development Code Section 30-3.46, the Board shall review development plans according to the required criteria below and shall: 1) approve, because all requirements have been met; 2) approve with specified conditions necessary to meet all requirements; 3) deny, because the plan as presented fails to meet all requirements; or 4) continue for further information or analysis.
  - a. The plan meets the submittal requirements of the Land Development Code, including payment of fees, and complies with submittal schedules to provide adequate notice and review; and
  - b. The proposed development is consistent with the Comprehensive Plan and complies with the Comprehensive Plan, the Land Development Code, and other applicable regulations.
3. **Variations.** (*Quasi-Judicial*) Per Land Development Code Section 30-3.55, the Board may grant a variance from the terms of the Land Development Code or building chapters only when the Board finds that each of the following criteria have been met:
  - a. Special conditions and circumstances exist that are peculiar to the land, structure, or building involved and that are not applicable to other lands, structures, or buildings in the same district.
  - b. The special conditions and circumstances do not result from the action of the applicant.
  - c. Granting the variance requested will not confer on the applicant any special privilege that is denied by this section to other lands, structures, or buildings in the same district.
  - d. Literal enforcement of the provisions of the Land Development Code or building chapters would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the Land Development Code or building chapters.
  - e. The variance requested is the minimum variance required to make possible the reasonable use of the land, building, or structure.

- f. The variance is in harmony with the general intent and purpose of the regulation at issue and the Land Development Code, and such variance will not be injurious to the abutting lands or to the area involved or otherwise detrimental to the public welfare.

**ARTICLE X**

**Parliamentary Procedure**

The latest edition of Robert's Rules of Order, so far as it is applicable and does not conflict with these Board rules or city ordinances, shall act as guide for the administration of Board meetings. The Chair shall preside at all meetings and hearings of the Board, and shall decide all points of order and procedure and may choose to deviate from Robert's Rules of Order.

**ARTICLE XI**

**Amendment to Board Rules**

These rules may be amended by a favorable vote of five members of the Board, subject to review and approval of the City Commission.

**ARTICLE XII**

**Effective Date**

These rules shall be effective immediately upon approval by the City Commission.