

1 **DRAFT**

2 **RESOLUTION NO. 160204**

3 **ADOPTED: July 21, 2016**

4 **A resolution amending and restating in its entirety the rules of the City**  
5 **Commission; providing a repealing clause and providing an immediate**  
6 **effective date.**

7  
8 **WHEREAS**, under the provisions of Section 2.06 Gainesville Charter, the City  
9 Commission may determine its own rules of procedure; and

10  
11 **WHEREAS**, the current rules of the City Commission were adopted by Resolution No.  
12 ~~150748-160204~~ on ~~April 21, 2016~~July 21, 2016; and

13  
14 **WHEREAS**, at its General Policy Committee meeting(s) on ~~May 9,~~  
15 ~~2016, June 2, 2016 and June 16, 2016 meetings~~, the City Commission ~~debated the-~~ discussed  
16 revisions to the current Rules ~~related to a motion to reconsider~~; and

17  
18 **WHEREAS**, the Rules are hereby amended and restated in their entirety to include the  
19 revisions desired by the City Commission. ~~revised rules related to a motion to reconsider.~~

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

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24 **SECTION 1.** The following are hereby adopted as rules of procedure and to provide for  
25 the time and place of meetings of the City Commission and its Committees until other such rules  
26 are adopted by the City Commission:

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28 **RULE 1. REGULAR MEETINGS**

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

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

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<b>1pm - Call to order afternoon session</b>	
Invocation	
Adoption of Consent Items	GRU, General Government, Audit & Finance Committee and General Policy Committee items
Adoption of Regular Agenda	
General Citizen Comment	For items not on the agenda, limited to 3 minutes per citizen and not to exceed 30 minutes total
Business Discussion Items	GRU and General Government items placed on the agenda by the Charter Officers or moved from Consent
<u>Commission Comment</u>	
<u>Committee Discussion Items</u>	<u>Items placed on the agenda by the Audit &amp; Finance Committee or General Policy Committee or moved from Consent</u>
<u>Other Policy Discussion Items</u>	<u>If the Commission does not get to these items, they are continued to the next regular Commission meeting or such other regular or special meeting or workshop, as the Commission directs</u>
<u>Informational Presentations</u>	<u>Items that do not request or require any Commission action. If the Commission does not get to these items, they are continued to the next regular Commission meeting or such other regular or special meeting or workshop, as the Commission directs</u>

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4:30-5:30 Dinner Break

<b>5:30 – Call to order evening session</b>	
Pledge of Allegiance	
Proclamations/Special Recognitions	
General Citizen Comment	For items not on the agenda, limited to 3 minutes per citizen and not to exceed 30 minutes total
<u>Resolutions</u>	
Public Hearings	
<u>Resolutions</u>	
<u>Ordinances (second readings and then first readings)</u>	
<u>Planning Petitions</u>	
<u>Citizen Comment</u>	<u>For items not on the agenda, limited to 3 minutes per citizen and not to exceed 30 minutes total</u>
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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1 **RULE 2. SPECIAL MEETINGS and WORKSHOP MEETINGS**

2 A Special Meeting or Workshop meeting may be requested either: (1) by vote of the  
3 Commission at any regular City Commission meeting or any General Policy Committee meeting;  
4 or (2) in writing on the form provided by the Clerk (which shall include a description of the  
5 business to be transacted) and signed by the Mayor, by two or more Commissioners, or by any  
6 Charter Officer. ~~Such request shall be submitted to the Clerk of the Commission (hereafter the~~  
7 “Clerk”) in writing on the form provided by the Clerk and shall include a description of the  
8 business to be transacted and the time and date the agenda language and back up will be  
9 available (no later than 48 hours prior to the meeting, if possible). Each request for a Special  
10 Meeting should, whenever possible, be approved at a Regular City Commission Meeting.

11  
12 The Clerk shall notify each member of the Commission of the date, time and business of the  
13 Special Meeting or Workshop Meeting. ~~The Clerk shall make reasonable effort to notify~~  
14 ~~members of the local news media (print and electronic) and the public.~~

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16 The meeting date, time and location shall be published on the Notice of Meetings at least two  
17 business days prior to the meeting. The ~~notice~~ Notice of Meetings shall state the business to be  
18 transacted at ~~the a~~ Special Meeting, and no other business shall be transacted. The Notice of  
19 Meetings may state the matters to be discussed at a Workshop Meeting, although any subject  
20 matter may be discussed, except for pending matters where notice to affected parties is required,  
21 such as pending planning petitions and quasi-judicial matters. The purpose of a Workshop  
22 Meeting is for informal discussions and no business may be transacted at a Workshop Meeting.  
23 Special Meetings may not be convened sooner than forty eight (48) hours after the Clerk  
24 provided notice to the last member of the Commission.

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26 **RULE 3. EMERGENCY MEETINGS**

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

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34 **~~RULE 4. WORKSHOP MEETINGS~~**

35 **RULE 54. SUNSHINE LAW, ATTENDANCE, QUORUM/VOTING, and**  
36 **RECESS/ADJOURN and CANCELLATION**

1 ~~All meetings of the Commission shall be held in accordance with Florida's Government in the~~  
2 ~~Four (4) members of the Commission shall constitute a quorum for the transaction of business,~~  
3 ~~but a smaller number may adjourn the meeting. Pursuant to Section 2.07 of the City Charter,~~  
4 ~~unless otherwise provided in the Charter or other law, a motion or a proclamation is adopted~~  
5 ~~when approved by vote of a majority of the members present, and an ordinance or resolution is~~  
6 ~~adopted when approved by the vote of four (4) or more members of the Commission.~~

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8 ~~In accordance with Section 286.012, Florida Statutes, each member of the Commission who is~~  
9 ~~present shall vote on each matter, unless that member has a conflict of interest under state ethics~~  
10 ~~laws or, in the case of a quasi-judicial matter, is unable to be an impartial decision-maker.~~  
11 ~~Commissioners shall vote "yes" in support of a motion and vote "no" when voting not to support~~  
12 ~~a motion. Except in a Roll Call, silence by a member shall be recorded as a "yes" vote. The yeas~~  
13 ~~and nays on any question before the Commission shall be recorded at the request of any~~  
14 ~~Commissioner.~~

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

23  
24 **RULE ~~65~~. AGENDA and AGENDA MANAGEMENT MEETING**

25 ~~All requests to address the Commission (on subjects not then under discussion by the~~  
26 ~~Commission) and a Any request to place an item on the agenda must be made by a Member of~~  
27 ~~the Commission, a Charter Officer, a Committee, or a Board. All such requests must be~~  
28 ~~accompanied by a written agenda item that provides the background and an explanation of the~~  
29 ~~matter, a recommendation that indicates what City action is sought and any relevant and~~  
30 ~~necessary back-up materials. All agenda items and back-up submitted by any Member of the~~  
31 ~~Commission, Charter Officer, Committee or Board shall be delivered to the Clerk on or before~~  
32 ~~6:00 P.M. on the Wednesday of the week prior to each Regular Meeting and by such date as the~~  
33 ~~Clerk sets for Special Meetings and Committee Meetings. The Clerk shall prepare publish the~~  
34 ~~agenda according to the Order of Business set forth in Rule 1., and shall furnish each Member of~~  
35 ~~the Commission and Charter Officer with a copy as far in advance of the meeting as time for~~  
36 ~~preparation will permit.~~

37  
38 ~~The following statement will be included on all Commission Agendas: "Citizens are encouraged~~  
39 ~~to participate in City of Gainesville meetings. In general, speakers will be limited to 3 (three)~~  
40 ~~minutes per agenda item. Additional time may be granted by the Mayor or by the City~~

1 ~~Commission as directed. The City of Gainesville encourages civility in public discourse and~~  
2 ~~one week~~ prior to each Regular Meeting. The Agenda Management Meeting is for the limited  
3 purpose of managing and finalizing the agenda (for example, adding last minute items, moving  
4 items from consent agenda to regular agenda or to a future agenda.) The meeting is not for  
5 discussing the substance of agenda items. All Commissioner, City staff and public comment  
6 shall be limited to agenda management. The Clerk shall prepare a final version of the agenda  
7 (together with all back-up) by 5pm on the Friday prior to each Regular Meeting. Once finalized,  
8 the agenda cannot be further modified (except to add back-up to existing items or to add items  
9 that are of an emergency or time sensitive nature) until the adoption of the consent and regular  
10 agenda on the day of the meeting.

11 ~~After the agenda is finalized at the Agenda Management Meeting, the Clerk will prepare the final~~  
12 ~~agenda for distribution to the Commission, the Charter Officers, the news media and the public.~~

13 **RULE 7. QUORUM and VOTING**

14 The Mayor shall be the presiding officer and Chair of the Commission. At the first meeting held  
15 after the annual swearing-in of newly elected members of the Commission, the Commission shall  
16 elect one of its members as Chair Pro tempore, who shall serve as the presiding officer in the  
17 absence of the Mayor. In the absence of both the Mayor and the Chair Pro tempore, the Clerk  
18 shall call the Commission to order; whereupon a temporary Chair shall be elected by the  
19 members of the Commission present. Upon arrival of the Mayor or Chair Pro tempore, the  
20 temporary Chair shall relinquish the chair. In the event the presiding officer of a meeting  
21 (whether that be the Mayor, Chair Pro tempore or temporary Chair) are not present in the  
22 meeting room, any Commissioner may lead the meeting until the presiding officer returns to the  
23 meeting room.

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

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31 **RULE ~~97~~. COMMISSION COMMITTEES**

32 ~~There shall be two standing Commission Committees — the Audit and Finance Committee and~~  
33 ~~the General Policy Committee, as described below. All Committee meetings shall be held in~~  
34 ~~accordance with Florida's Government in the Sunshine Law.~~ Committees shall meet at the call  
35 of the Chair at such time and place as is convenient to the members of the Committee. All  
36 Committee meetings shall be included on the weekly notice of meetings prepared by the Clerk of  
37 the Commission.

1 ~~The Clerk of the Commission shall serve as the Clerk for each Committee. Each Committee~~  
2 ~~Liaison-The Clerk~~ shall prepare an agenda for each Committee meeting based on the agenda  
3 items submitted by a Commissioner or by a Charter Officer. Each Committee Chair shall  
4 review his/her respective Committee meeting agendas and agenda items. Upon review by the  
5 Committee Chair, the Clerk will publish the agenda ~~shall be available~~ on the City's website.  
6 ~~Each Committee Liaison shall prepare minutes after each Committee meeting. After approval by~~  
7 ~~the Committee, the minutes shall be available on the City's website.~~

8 A. STANDING COMMITTEES: There are two standing Commission Committees – the Audit  
9 and Finance Committee and the General Policy Committee, as described below. On April 30<sup>th</sup> of  
10 each year, all outstanding referrals in each Standing Committee shall automatically sunset, unless  
11 the Committee votes prior to April 30<sup>th</sup> of each year to retain a referral for further ~~committee~~  
12 work. ~~The Committee Liaison shall prepare a report of all sunset and retained referrals and place~~  
13 ~~the report on the City Commission consent agenda.~~

14 A(1). The **Audit and Finance Committee** shall consist of the Mayor, who shall serve as the  
15 chair, and one City Commissioner appointed by the Mayor. ~~The City Auditor (or his designee)~~  
16 ~~shall serve as the Committee Liaison.~~

17 1. Nature of Responsibilities

18 The Audit and Finance Committee monitors internal and external audit affairs and  
19 provides policy oversight and guidance to management regarding the financial affairs of  
20 the City. These responsibilities include oversight of the City's internal accounting  
21 control, periodic review of the internal audit function, selection of the independent  
22 external auditor, review of the annual audit plans of both the internal and external  
23 auditors, review of the Comprehensive Annual Financial Report (CAFR), auditor  
24 communications, interim financial statements and all other audit and finance-related  
25 matters.

26 2. Scope of Responsibilities

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

29 a. Audit Related Issues

- 30  
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32 i. City Auditor Reports  
33 ii. City Auditor annual budget  
34 iii. City Auditor annual audit plan  
35 iv. City Auditor long-range audit plan  
36 v. External Auditor selection process (pursuant to Section 218.391,  
37 Florida Statutes)  
38 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.

~~B-(2)~~ The **General Policy Committee** shall consist of the Mayor and all Commissioners. The Mayor, or in his/her absence the Chair Pro tempore, shall be the Chair of this Committee. ~~The Clerk (or his designee) shall serve as the Committee Liaison. Four (4) members of the Committee shall constitute a quorum for the transaction of business, but a smaller number may adjourn the meeting.~~ 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 conduct further research, or directing the City Attorney to draft an ordinance.) However, this Committee may not:

- discuss or take action on: any quasi-judicial matters, matters that are required by law to be publicly advertised or conducted during a Regular or Special City Commission Meeting;
- hold any public hearings required by law; or
- adopt any resolutions or ordinances.

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The Commission may appoint such Special Committees as ~~they-it deems~~ necessary to address particular issues. All Special Committees ~~shall-will~~ be appointed for a limited term and ~~shall will~~ complete their assigned work within that term, unless further extended by the Commission. ~~All Special Committees shall submit a final report to the Commission. The details associated with the report will be dependent upon the work assigned to that Special Committee.~~

**RULE ~~118~~. RULES OF DEBATE**

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

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

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

After the decision of any question, it shall be in order for any member to move reconsideration. If the motion to reconsider is approved by a majority of those members present, the item shall be placed on a future agenda for reconsideration, subject to legal, contractual, fiscal, quasi-judicial and other constraints as staff may advise the Commission. If the Commission does not specify the future date when the item will be heard, the Mayor, in consultation with the Charter Officers, will determine the date.



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

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6 **RULE ~~129~~. COMMISSION MINUTES and RECORDS**

7 The Clerk shall submit minutes of meetings for approval as timely as possible. ~~Unless a reading~~  
8 ~~of the Commission meeting minutes is requested by a majority of the Commission,~~ sSuch  
9 minutes may be approved ~~without reading on the Consent Agenda~~, if the Clerk has provided a  
10 copy of the minutes in the agenda backup. After approval, the Clerk shall publish the minutes  
11 ~~shall be available~~ on the City's website. Every petition, communication, or other paper ~~addressed~~  
12 ~~to the Commission or~~ presented in writing to the Commission at any Commission or Committee  
13 meeting shall be retained (or a copy thereof) by the Clerk ~~with the meeting minutes together with~~  
14 ~~the identification of the sender or writer.~~

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16 **RULE ~~13~~10. PERSONS APPEARING BEFORE THE COMMISSION**

17 **A. General Citizen Comment**

18 General Citizen Comment is limited to issues not located on other portions of the printed agenda.  
19 Each general comment period is limited to 30 minutes total. A citizen who has addressed the  
20 Commission during one general citizen comment period in a meeting will be recognized by the  
21 presiding officer to speak after other citizens who have not spoken are given the opportunity to  
22 address the Commission, time permitting.

23 **B. Citizen Comment on Agenda Items**

24 Citizens commenting on agenda items shall address only the item being considered. Citizens  
25 wishing to speak on public hearing items (which includes general public hearings, resolutions,  
26 ordinances and planning petitions) may be required to fill out a card provided by the Clerk and  
27 submit the completed card to the Clerk prior to speaking.

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29 **C. General Conduct for any Citizen Comment**

30 Any person desiring to address the Commission shall first request recognition by the presiding  
31 officer. After being recognized, the person (1) shall give his/her name in an audible tone of  
32 voice; (2) shall limit the address to any time limitation established; and (3) shall address all  
33 remarks to the Commission as a body and not to any member thereof.

34 Each citizen is limited to 3 minutes per general comment period or per agenda item and other  
35 time limits may be established by the presiding officer based on the number of participants. In

1 addition, the presiding officer may adopt a time limitation to provide equal time for opponents  
2 and proponents speaking to any particular issue.

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

7 **~~D.~~ — Decorum**

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9 **D. Agenda Statement**

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11 The following statement will be included on all meeting agendas: "Citizens are encouraged to  
12 participate in City of Gainesville meetings. In general, speakers will be limited to 3 (three)  
13 minutes per agenda item and 3 (three) minutes per citizen comment period. The City of  
14 Gainesville encourages civility in public discourse and requests that speakers direct their  
15 comments to the Chair. Signs, props, and posters are not permitted in the meeting room."

16 **RULE 1411. ORDINANCES and RESOLUTIONS**

17 All Ordinances and Resolutions shall be prepared, or approved as to form and legality, by the  
18 City Attorney prior to being introduced at a City Commission meeting. All Ordinances and  
19 Resolutions shall be introduced in writing with a complete copy filed with the Clerk in the  
20 agenda backup. No Ordinance shall be adopted on final reading until notice as required by law  
21 has been published. All Ordinances shall be signed by the ~~presiding officer~~ Mayor or Mayor Pro  
22 Tempore, and attested by the Clerk of the Commission and approved as to form and legality by  
23 the City Attorney.

24

25 **RULE 1512. OTHER DOCUMENTS FOR EXECUTION**

26 All documents to be executed by the Mayor and Clerk of the Commission shall have first been  
27 submitted to the City Attorney's Office for approval as to form and legality before placing on the  
28 agenda and should be formatted for immediate signature after authorization of the execution.

29

30 **RULE 1613. SERGEANT-AT-ARMS**

31 The City Manager (or designee) shall be sergeant-at-arms of the Commission meetings. The  
32 sergeant-at-arms shall carry out all orders and instructions given by the presiding officer for the  
33 purpose of maintaining order and decorum at the Commission meeting and the following  
34 procedure will provide guidance in handling disruptions:

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1 A. Individual refuses to relinquish the podium after being allowed to address the  
2 Commission: The presiding officer will inform the individual that their time to address the  
3 Commission has expired and the presiding officer will direct the individual to leave the podium.

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5 B. Individual causes disruption in the Commission meeting site: The presiding officer will  
6 inform the individual causing the disruption to cease disruptive activity. If the disruption fails to  
7 stop:

8 1. The presiding officer will inform the individual causing the disruption that their  
9 actions are contrary to the orderly running of the meeting and that the individual is to  
10 cease such action or the Sergeant-at-Arms will be instructed to remove the individual  
11 from the meeting site.

12 2. The presiding officer will revoke the individual's participation to attend the  
13 meeting and direct that the individual leave the meeting site. The presiding officer will  
14 inform the individual that if the individual is directed to leave and fails to do so, the  
15 individual will be subject to arrest for trespass.

16  
17 Final Action: In substantially the following words: As the presiding officer, I inform you that  
18 your actions are inconsistent with the orderly function of this meeting and fails to comply with  
19 the lawful order of the Chair. I am instructing the Sergeant-at-Arms to have you removed from  
20 this meeting site, and if deemed necessary by the Sergeant-at-Arms, to remove you from this  
21 building.

22  
23 **RULE ~~17~~14. ROBERT'S RULES OF ORDER**

24 The current version of Robert's Rules of Order, Newly Revised (~~Tenth Edition~~), so far as they  
25 are applicable and do not conflict with these Rules or the Ordinances or Charter of the City, shall  
26 guide the Commission as needed.

27  
28 **RULE ~~18~~15. QUASI-JUDICIAL ACTIONS**

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

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

33  
34 **B. Request for Formal Hearing**

35 All persons entitled to actual written notice of a quasi-judicial matter before the Commission  
36 may request a formal hearing by filing with the Clerk a written request before the close of  
37 business at least seven (7) days prior to the Commission meeting when the matter is scheduled

1 to be heard. Persons who are not entitled to actual written notice but believe they are an  
2 "affected party", as defined in this Rule ~~18~~15, may request a formal hearing and determination  
3 of affected party status by filing with the Clerk a written request for a formal hearing and an  
4 application for affected party status as provided this rule at least seven (7) days prior to the  
5 Commission meeting when the matter is scheduled to be heard. Failure to timely file a request  
6 for a formal hearing shall set the matter for an informal quasi-judicial hearing.  
7

8 **C. Formal Quasi-Judicial Hearings**

9 The Commission shall make a determination of affected party status and thereafter, the Clerk  
10 shall collectively swear-in all parties who intend to present/testify at the hearing. An affected  
11 party is any person who is entitled to actual written notice of the quasi-judicial matter. An  
12 affected party who is not entitled to actual written notice but who believes that they have a  
13 special interest or would suffer an injury distinct in kind and degree from that shared by the  
14 public at large may request affected party status by filing an application, as provided in Part B of  
15 this Rule. The Commission will consider the facts articulated in the application and the decision  
16 of the Commission shall be final. In order to participate in the formal hearing, all affected parties  
17 shall complete the form prescribed by the Clerk of the Commission, stating their name and  
18 address and other pertinent information, and whether they support or oppose the matter before  
19 the Commission. The form shall be delivered to the Clerk at the commencement of the hearing.

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

26	Order	Maximum Time Limit (minutes)
27	a. Determination of affected party status	
28	b. Swearing-in of all parties	
29	c. Disclosure of inadvertent ex-parte communication	
30	d. Introduction of the matter by staff	3
31	*e. Petitioner	20
32	*f. Staff presentation	10
33	*g. Affected Party for (if any)(per person)	10

1	*h. Affected Party against (if any) (per person)	10
2	*i. Rebuttal (Petitioner/Staff)	5
3	j. Closing by Petitioner, Staff and Affected Parties (per person)	3
4	k. Public comment (per person)	3
5	**l. Deliberation and vote of the Commission	

6 \*Witnesses may be presented during parts e-i of the hearing and the witnesses may be cross  
7 examined by the Petitioner, Staff and Affected Parties. However, cross examination is limited to  
8 10 minutes per witness. In addition, the Commission may call any witness it deems necessary to  
9 reach a complete and informed decision. The examination of witnesses shall be conducted under  
10 oath by direct examination on matters which are relevant and material to the issue or issues  
11 before the Commission. After the conclusion of direct examination, the witness may be cross-  
12 examined by another party, or a Commissioner. All questions shall be directed through the  
13 presiding officer and the witness shall answer the question unless the presiding officer deems the  
14 question to be irrelevant or immaterial. Any commissioner or party may raise evidentiary  
15 objections. The inquiry under cross-examination shall be limited to matters raised in the direct  
16 examination of the witness. No re-direct shall be allowed unless requested by a party stating the  
17 desired area of inquiry and that request is approved by the presiding officer. If re-direct is  
18 allowed, it shall be limited to questions of the witness on issues raised in the cross-examination.  
19 This provision shall not prohibit a member of the Commission from questioning any person on  
20 matters relevant to the matter.

21 \*\*In part l. of the hearing, the Commission shall deliberate a motion, if necessary, and reach a  
22 decision by voting on the motion. In reaching its decision, the Commission may only consider  
23 evidence presented at the hearing and base its decision on the competent, substantial evidence of  
24 record. The Commission shall orally issue an order at the conclusion of the hearing, unless  
25 continued. After the meeting, the City Attorney shall prepare a written order stating, at a  
26 minimum, whether the petition was granted or denied and if granted, specifying any conditions,  
27 requirements or limitations on the approval of the matter. The written order shall be presented to  
28 the Commission for approval at a Special Meeting or at the next Regular Meeting of the  
29 Commission. Upon approval, the presiding officer shall execute and the Clerk shall attest the  
30 order. Executed copies of the order shall be hand delivered or mailed to the petitioner and  
31 affected parties.

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

33 If no person files a timely request for a formal hearing, the matter shall be set for an informal  
34 hearing. Cross-examination is not permitted and deemed waived by all persons or parties. This

1 provision does not prohibit a member of the Commission from questioning any person relevant  
2 to the matter. Any person may speak for or against the matter in the public comment portion if  
3 they complete a registration card at the meeting as provided by the Clerk. The presiding officer  
4 may limit the time of any portion of an informal hearing to avoid unnecessary repetition and  
5 delay. The vote of the Commission shall constitute an oral order, no written order will be issued.  
6 The order of presentation for the hearing is as follows:

- 7 a. Disclosure of inadvertent ex-parte communications
- 8 b. Staff presentation
- 9 c. Petitioner or Applicant
- 10 d. Public comment
- 11 e. Deliberation and vote of the Commission

12  
13 **E. Representation of Parties**

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

18 **F. Evidence**

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

27 **G. Continuances**

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

30 **H. Ex Parte Communications**

31 The Commission has chosen to prohibit ex-parte communications (i.e., a verbal or written  
32 communication with a Commissioner received outside of the quasi-judicial hearing) in  
33 connection with any quasi-judicial hearing before the Commission. However, it is recognized  
34 that members of the Commission may, from time to time, receive or engage in inadvertent ex-  
35 parte communications. The following procedures are provided to remove any presumption of

1 prejudice. Should an ex parte communication be received by an individual commissioner these  
2 procedures shall be followed:

3 1. Written Communications - If a member of the Commission receives a written "ex parte"  
4 communication relating to a quasi-judicial matter coming before the Commission, the  
5 member should transmit the communication to the Clerk for inclusion in the official  
6 records. These communications shall be forwarded to the parties as soon as practicable  
7 before the hearing.

8  
9 2. Oral Communications - As soon as it becomes apparent that an oral communication  
10 pertains to a quasi-judicial matter coming before the Commission, the member of the  
11 Commission should explain to the person that the communication is prohibited and that  
12 he or she is required to end the communication on that subject.

13  
14 3. At the hearing, each member of the Commission should disclose any inadvertent ex-parte  
15 communications and state for the record whether the member is able to be an impartial  
16 decision-maker. If not so able, the member should abstain from participating and voting  
17 in the quasi-judicial hearing. Any party may question, through the presiding officer, a  
18 member of the Commission about any ex parte communications.

19  
20 **~~RULE 19~~16. WAIVER OF THESE RULES**

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

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

26 Dated ~~this 21st day of July, 2016.~~ \_\_\_\_\_, 2018.

27  
28  
29 \_\_\_\_\_  
30 Lauren Poe, Mayor

31 ATTEST: APPROVED AS TO FORM AND LEGALITY:

32  
33 \_\_\_\_\_  
34 \_\_\_\_\_

| 1 ~~Kurt M. Lannon~~Omichele D. Gainey, \_\_\_\_\_Nicolle M. Shalley, City  
2 Clerk of the Commission

