

**RULES OF THE CITY PLAN BOARD
CITY OF GAINESVILLE, FLORIDA**

Approved by the City Commission and thereby effective on _____.

**ARTICLE I
Objectives**

The objectives and purposes of the City Plan Board (the “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**

Section 1 Number of Members; Quorum. The board shall consist of seven regular members appointed by the City Commission, as well as an additional non-voting member that is appointed by the School Board of Alachua County. A quorum shall consist of four regular, voting members. A majority vote of the quorum present shall be required for the transaction of all business.

Section 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/Committee at a time.

Section 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 a medical reason or professional/educational obligation. Board members shall notify the board secretary of an excused absence prior to the meeting, if practicable.

Section 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**

Section 1 Officers. The officers of the board shall consist of a Chair and Vice-Chair.

Section 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.

Section 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.

- Section 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. The School Board member may not serve as an officer.

ARTICLE IV
Secretary

- Section 1** 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

- Section 1** Regular Meetings. The board shall meet once per month, normally on the third 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.
- Section 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.
- Section 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

- Section 1** The order of business at regular meetings shall be:
- A. Roll Call
 - B. Approval of Agenda
 - C. Approval of Previous Meeting's Minutes
 - D. Requests to Address the Board
 - E. Unfinished Business
 - F. New Business
 - G. Board Comment
 - H. Adjournment

ARTICLE VII Quasi-Judicial Hearings

Section 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 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. The review of development plans, special use permits, and most rezonings are examples of quasi-judicial decisions.

Section 2 Affected Parties. 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. Although the general public may not participate as an affected party, quasi-judicial hearings shall provide an opportunity for public comment.

Section 3 Selection of Informal or Formal Quasi-Judicial Hearing. 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.

Section 4 Formal Quasi-Judicial Hearing Procedure. The board shall conduct formal quasi-judicial hearings according to the following procedure.

A. Order of Presentation; Time Limits. The order of presentation and corresponding time limits shall be as follows. 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.

<u>Order</u>	<u>Max Time (minutes)</u>
1) Introduction	3
2) Affected party determination	
3) Disclosure of ex-parte communications	
4) Swearing in of affected parties and witnesses	
5) Staff presentation*	10
6) Applicant presentation*	20
7) Affected party for approval*	10 (per person)
8) Affected party against approval*	10 (per person)

9) Staff rebuttal*	5
10) Applicant rebuttal*	5
11) Public comment	3-5 (per person)
12) Deliberation and vote of the board	

* During parts 5-10, witnesses may be presented and all affected parties may cross-examine any witnesses presented. Cross-examination is limited to 10 minutes per witness.

B. Introduction. 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.

C. Affected Party Determination; Representation. In order to participate, all affected parties shall complete a form prescribed by the board, stating their name and address and other pertinent information, and whether they support or oppose approval of the petition. If not submitted in advance with the affected party that requested the formal hearing, the form shall be submitted to the Secretary at the proceeding.

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.

D. 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.

E. Swearing In. All affected parties and witnesses shall be collectively sworn by the Secretary or designee.

- F. 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.

- G. Examination of Witnesses; Direct and Cross-Examination.** The examination of witnesses shall be conducted under oath by direct examination on matters that are relevant and material to the issue(s) before the board. After the conclusion of direct examination, the witness may be cross-examined by another affected party or board members. The inquiry under cross-examination shall be limited to matters raised in the direct examination of the witness being examined. 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.
- H. 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.
- I. 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.
- J. 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.

K. Board Oral Order. The board shall orally issue an order and state whether the applicant's request meets the applicable decision criteria.

L. Board Written Order. 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.

Section 5 Informal Quasi-Judicial Hearing Procedure

A. Order of Presentation; Time Limits. The order of presentation and corresponding time limits shall be as follows. 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.

<u>Order</u>	<u>Max Time (minutes)</u>
1) Affected party determination	
2) Disclosure of ex-parte communications	
3) Swearing in of affected parties and witnesses (if desired by any affected party)	
4) Staff presentation*	10
5) Applicant presentation*	10
6) Affected party presentation/testimony*	5 (per person)
7) Public comment	3-5 (per person)
8) Deliberation and vote of the board	

* During parts 4-6, witnesses may be presented and all affected parties may cross-examine any witnesses presented. Cross-examination is limited to 5 minutes per witness.

B. Other Procedural Matters. Subsections C-K of the section above for formal quasi-judicial hearings shall also apply to informal quasi-judicial hearings.

ARTICLE VIII Legislative Matters

Section 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. The review of land use changes and text amendments to the Comprehensive Plan or Land Development Code are examples of legislative decisions.

Section 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.

A. Order of Presentation; Time Limits. The order of presentation and corresponding time limits shall be as follows.

<u>Order</u>	<u>Max Time (minutes)</u>
1) Introduction (by board member or city staff)	
2) Staff presentation	10
3) Applicant presentation (if applicable)	10
4) Public comment	3-5 (per person)
5) Deliberation and vote of the board	

ARTICLE IX Criteria for Decisions

Section 1 Land Use Changes. *(Legislative)* Per Comprehensive Plan Future Land Use Element Policy 4.1.3, the board shall review proposed changes to the Future Land Use Map by considering factors such as, but not limited to, the following:

- A. Consistency with the Comprehensive Plan;
- B. Compatibility and surrounding land uses;
- C. Environmental impacts and constraints;
- D. Support for urban infill and/or redevelopment;
- E. Impacts on affordable housing;
- F. Impacts on the transportation system;
- G. An analysis of the availability of facilities and services;
- H. Need for the additional acreage in the proposed future land use category;
- I. Discouragement of urban sprawl, as defined in Section 163.3164, Florida Statutes, according to the requirements of Section 163.3177(6)(a)9, Florida Statutes;
- J. Need for job creation, capital investment, and economic development to strengthen and diversify the city's economy; and
- K. Need to modify land use categories and development patterns within antiquated subdivisions, as defined in Section 163.3164, Florida Statutes.

In no case shall a change to the Future Land Use Plan or any other policy in the Future Land Use Element indicate a presumption that the board shall recommend a change of designation of land use for any other parcel.

Section 2 Zoning Changes. (*Quasi-Judicial, except certain comprehensive large-scale rezonings*) Per Land Development Code Section 30-347.3, the board shall consider and evaluate the changes in relation to all pertinent factors, including the following:

- A. The character of the district and its peculiar suitability for particular uses;
- B. Conservation of the value of buildings and encouraging the most appropriate use of land throughout the city;
- C. The applicable portions of any current city plans and programs such as land use, traffic ways, recreation, schools, neighborhoods, drainage and housing;
- D. The needs of the city for land areas for specific purposes to serve population and economic activities;
- E. Whether there have been substantial changes in the character or development of areas in or near an area under consideration for rezoning;
- F. Consistency with the goals, objectives and policies of the Comprehensive Plan; and
- G. The facts, testimony and reports presented to the board at public hearings.

Section 3 Special Use Permits. (*Quasi-Judicial*) Per Land Development Code Section 30-233, the board shall review requests for a Special Use Permit according to the required criteria below and shall: 1) approve; 2) approve with specified conditions; or 3) deny, with a statement of reasons for denial.

- A. The use or development complies with all required regulations and standards of the Land Development Code and other applicable regulations;
- B. The proposed use or development will have general compatibility and harmony with the uses and structures on adjacent and nearby properties;
- C. Necessary public utilities are available to the proposed site and have adequate capacity to service the proposed use and development;
- D. The use or development is serviced by streets with adequate capacity to accommodate the traffic impacts of the proposed use;
- E. Screening and buffers are proposed of such type, dimension and character to improve compatibility and harmony of the proposed use and structure with the uses and structures of adjacent and nearby properties;
- F. The use or development conforms to the general plans of the city as embodied in the Comprehensive Plan; and
- G. The proposed use or development meets the level of service standards adopted in the Comprehensive Plan and conforms to the concurrency management requirements of the Land Development Code.

Section 4 Wellfield Protection Special Use Permits. (*Quasi-Judicial*) Per Land Development Code Section 30-204, the board shall review requests for a Wellfield Protection Special Use Permit according to the required criteria below and shall: 1) approve; 2) approve with specified conditions; or 3) deny, with a statement of reasons for denial.

- A. The proposed use or development will not endanger the city's potable water supply;
- B. There has been proper abandonment, as regulated by the relevant Water Management District or state agency, of any unused wells or existing septic tanks at the site. An existing septic tank may remain if it is used solely for domestic waste and if it meets all applicable state and local regulations;
- C. The applicant is in compliance with the requirements of the Alachua County Hazardous Materials Management Code, and all applicable state and federal regulations;
- D. The development properly addresses environmental features such as wetlands, creeks, lakes, sinkholes and soils to ensure that hazardous materials will not endanger the potable water supply and the environmental features;
- E. The proposed use or development has met all of the criteria for general Special Use Permits outlined in Land Development Code Section 30-233 and in these Rules, Article IX Section 3.

Section 5 Development Plan Review. (*Quasi-Judicial*) 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 compliance with submittal schedules to ensure adequate notice and review; and
- B. The proposed development is consistent with the Comprehensive Plan and complies with the Comprehensive Plan (including any required level of service standards), the Land Development Code and other applicable regulations.

Section 6 Text Amendments – Comprehensive Plan and Land Development Code. (*Legislative*) The board shall make recommendations to the City Commission regarding any text amendments to the Comprehensive Plan or Land Development Code.

Section 7 Vacation of Street or Public Place. (*Quasi-Judicial*) Per Comprehensive Plan Future Land Use Element Policy 1.2.1 and Land Development Code Section 30-192, the board shall review requests for a vacation of a street or public place according to the following required criteria:

- A. The vacation of street right-of-way does not prevent reasonable connection for existing and future public transit, pedestrian, and non-motorized and motorized vehicle trips.

AND

- B. The public street or public place no longer serves a public purpose.

OR

C. The vacation of the public street or public place is in the public interest. The board shall determine whether the vacation is in the public interest according to the following criteria:

- 1) Whether the public benefits from the use of the subject right-of-way as part of the city street system.
- 2) Whether the proposed action is consistent with the Comprehensive Plan.
- 3) Whether the proposed action would deny access to private property.
- 4) The effect of the proposed action upon public safety.
- 5) The effect of the proposed action upon the safety of pedestrians and vehicular traffic.
- 6) The effect of the proposed action upon the provision of municipal services including, but not limited to, emergency service and waste removal.
- 7) The necessity to relocate utilities both public and private.
- 8) The effect of the proposed action on the design and character of the area.

Section 8 Determinations for Nonpresumptive Vested Rights and Concurrency. (*Quasi-Judicial*)
See Land Development Code Article III.

Section 9 Binding Resource Determinations. (*Quasi-Judicial*) See Land Development Code
Section 30-310.

ARTICLE X

Final and Non-Final Decisions

Section 1 The board has final decision authority for special use permits (other than wellfield special use permits), development plans, determinations for nonpresumptive vested rights and concurrency, and decisions on binding resource determinations.

Section 2 All other actions of the board are non-final and advisory to the City Commission, including decisions on land use and zoning changes, text amendments to the Comprehensive Plan and Land Development Code, wellfield special use permits, and right-of-way vacations.

ARTICLE XI

Parliamentary Procedure

Section 1 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 XII

Amendment to Board Rules

Section 1 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 XIII

Effective Date

Section 1 These rules shall be effective immediately upon approval by the City Commission.