

## **RESOLUTION 2020-169**

### **A RESOLUTION ADOPTING RULES OF PARLIAMENTARY PROCEDURE; AND SETTING FORTH AN EFFECTIVE DATE.**

**WHEREAS**, section 3.08(b), Charter of the City of Ormond Beach provides that the City Commission shall adopt rules for the conduct of its meetings; and

**WHEREAS**, the City Commission has for many years afforded members of the general public a reasonable opportunity to speak and to be heard at public meetings regarding matters upon which official action will be taken (i.e., a vote will be taken); and

**WHEREAS**, section 286.0114, Florida Statutes protects the right of members of the general public to speak and to be heard at public meetings and recognizes the right of local government bodies to adopt reasonable rules for conducting business at public meetings; and

**WHEREAS**, section 286.0114, Florida Statutes recognizes:

- (1) that the right of members of the general public to speak and to be heard does not necessarily need to occur at the same meeting at which official action is to be taken on a particular matter as long as an opportunity to speak is afforded during a decision making process that occurs within a reasonable proximity in time before the public meeting at which official action will be taken on the matter (i.e., a vote will be taken);
- (2) the statute does not prohibit governing bodies from maintaining orderly conduct or proper decorum in a public meeting;
- (3) the right of the general public to speak and to be heard is subject to reasonable rules and policies that may be adopted by governing bodies that:

- (a) provide guidelines regarding the amount of time an individual is allowed to speak;
- (b) prescribe procedures for allowing representatives of groups or factions to address the governing body at meetings in which a large number of people desire to speak, rather than allowing all members of such groups or factions to speak;
- (c) prescribe procedures or forms for a person to use to inform the governing body of a desire to speak; to indicate the person's support, opposition, or neutrality to a particular item of business; and to designate a person's representative who will speak on behalf of the person or the person's group or faction;
- (d) designate a specified period of time for public comment.

**WHEREAS**, section 286.0114, Florida Statutes further recognizes that it does not apply to:

- (1) an official action that must be taken to deal with an emergency situation affecting the health, welfare, or safety of the general public if compliance with the requirements would cause unreasonable delay in the ability of a governing body to act;
- (2) an official act involving a ministerial act, including but not limited to, approving minutes of public meetings and ceremonial proclamations;
- (3) a meeting that is exempt from section 286.011, Florida Statutes; or

- (4) a meeting during which a governing body is acting in a quasi-judicial capacity, except that a right to be heard as may be otherwise provided by law shall not be affected.

**WHEREAS**, the City Commission desires to adopt reasonable rules of procedure for conducting business at public meetings and hereby determines that the rules adopted herein are consistent with section 3.08(b) of the city Charter, section 286.0114, Florida Statutes, and other applicable laws; now therefore,

**BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF ORMOND BEACH, FLORIDA, THAT:**

**SECTION ONE:** The City Commission of the City of Ormond Beach, Florida, hereby adopts the following rules of procedure that shall govern the conduct of its proceedings:

**RULE 1. AUTHORITY.**

**1.1 Charter:** The rules provided herein are adopted pursuant to the authority of *section 3.08(b), Charter* of the City of Ormond Beach, section 286.0114, Florida Statutes and other applicable law. The following set of rules shall be in effect upon their adoption by the City Commission and shall continue in full force and effect until such time as they are amended, suspended or new rules are adopted in the manner provided by the Charter and these rules. (*Reference: section 3.08(b), Charter*)

**1.2 Recitals:** The “Whereas” recitals constitute the legislative findings of the City Commission and are incorporated herein by reference.

**RULE 2. GENERAL RULES.**

**2.1 Meetings Open to Public:** All meetings of the City Commission shall be open to the general public, except for such meetings that are exempt by general or special law. Special meetings may be held on the call of the Mayor or a majority of the City Commission and, whenever practicable, upon no less than twelve (12) hours notice to each member and the public. (*Reference: section 3.08(a), Charter; section 286.011(1), Florida Statutes*)

**2.2 Quorum:** A majority of the members of the City Commission shall, free of voting conflict, constitute a quorum and shall be necessary for the transaction of business, except

where a super-majority vote is otherwise required by rule or law. If a quorum is not present, the meeting shall be adjourned to a later time if attendance of absent members is not compelled. (Reference: section 3.08(c), Charter)

**2.3 Compelling Attendance:** If a quorum is not present, the members of the City Commission present may compel the attendance of absent members in a manner and subject to the penalties prescribed by the rules of the City Commission. (Reference: section 3.08(c), Charter)

**2.4 Minutes of Proceedings:** Minutes of the meetings of the City Commission shall be kept by the City Clerk, except for such meetings as are exempt by general law. (Reference: section 3.08(b), Charter)

**2.5 Written Comments When Absent.** Any member of the City Commission, whenever he or she will be unable to attend a meeting of the City Commission (i.e., any regular meeting, special meeting, or workshop meeting), may submit written comments to the City Clerk regarding any matter on the agenda of the meeting at which the member will be absent, and the City Clerk shall read the written comments of the absent member into the official record of the meeting at the time the item appearing on the Agenda is considered by the City Commission. All written comments submitted to the City Clerk shall be maintained as part of the official record of the meeting at which they were read into the record.

**2.6 Voting:**

(a) Voting on all ordinances and resolutions shall be by roll call vote and shall be recorded in a journal of minutes of the meeting. A roll call vote may be taken by voice vote, electronic means, or other means by which individual votes are taken and recorded in a journal of minutes of the meeting.

(b) No action shall be final or binding unless adopted by majority vote of the quorum present or by super majority vote where otherwise required. In the event less than the full commission is present at a meeting and a vote taken ends in a tie vote, the matter shall be deemed to be continued for further consideration to the next available meeting at which the full commission is expected to be present. (Reference: section 3.08(c), Charter; section 166.041(4), Florida Statutes)

**2.7 Presiding Officers.** The Mayor shall be the Presiding Officer at all meetings of the City Commission. The City Commission shall, by majority vote, elect one of its members to be Deputy Mayor. The Deputy Mayor shall act as Mayor during the absence or disability of the Mayor and during a vacancy in the office of Mayor until such vacancy is filled in accordance with law. (Reference: sections 3.05, Charter)

**2.8 City Manager:** The City Manager or the City Manager's designee is expected to attend all meetings of the City Commission and shall have the right to take part in all discussions, but may not vote. (Reference: section 4.04(d), Charter)

**2.9 City Attorney:** The City Attorney or the City Attorney's designee is expected to attend all meetings of the City Commission and provide guidance and opinions, on questions of law to members of the City Commission relating to their respective powers and duties. The City Attorney shall act as the commission's parliamentarian by advising the Presiding Officer regarding matters of procedure.

**2.10 City Clerk:** The City Clerk is the official records custodian of the city and the City Clerk or the City Clerk's designee is expected to attend all meetings of the City Commission, keep the official minutes of proceedings, and perform such other duties in accordance with the City Clerk's duties. (Reference: section 286.011(b), Florida Statutes)

**2.11 Roberts Rules of Order:** The most recent edition of *Roberts Rules of Order Revised* shall serve as a guide to the proceedings of the City Commission to the extent they are not in conflict with these rules, the Charter, or general law.

### **RULE 3. TYPES OF MEETINGS.**

**3.1 Organizational Meeting:** The City Commission shall hold its organizational meeting on the third Tuesday in November following each regular municipal election. (Reference: section 3.08(a), Charter.)

**3.2 Regular Meeting:** Regular meetings of the City Commission shall be held at least twice in every month, at such times and places as the City Commission may prescribe by resolution; except that the city commission may cancel, by affirmative vote of a super majority of the quorum present, no more than one regular meeting a month provided that no more than four such meetings may be canceled in any twelve-month period commencing from the third Tuesday in November of any given year. Any meeting so canceled may, at the discretion of the city commission, be rescheduled in the same manner as any other meeting. (Reference: section 3.08(a), Charter)

**3.3 Special Meetings:** Special meetings may be held on the call of the Mayor or a majority of the commission members and, whenever practicable, upon no less than twelve (12) hours notice to each member and the public. The call for a special meeting shall be filed with the City Clerk, except that an announcement of a special meeting during any regular or special meeting shall be sufficient notice of such special meeting unless otherwise provided by general law or ordinance. (Reference: section 3.08(a), Charter)

**3.4 Workshop Meetings:** Workshop meetings are special meetings at which no vote or other formal action shall be taken by the city commission, and may be held on the call of the Mayor or a majority of the commission members. Members of the general public are not ordinarily allowed to speak at work shop meetings because official action by the City Commission is not taken; however, the Presiding Officer may in his discretion allow such participation to occur. (Reference: section 3.08(a), Charter)

## **RULE 4. DUTIES OF PRESIDING OFFICER.**

**4.1 Call to Order:** The meetings of the City Commission shall be called to order by the Mayor or Deputy Mayor, as the case may be, as the Presiding Officer. In the absence of the Mayor and Deputy Mayor, the City Clerk shall call the meeting to order, whereupon the members of the commission shall elect a chairperson from among their membership to preside over the meeting, until such time as either the mayor or deputy mayor should arrive at the meeting.

**4.2 Preservation of Order:** The Presiding Officer shall preserve order and decorum; prevent attacks on personalities or the impugning of members or motives, and confine debate to the question under discussion. For purposes hereof, redundant or repetitive comments shall be deemed to have a dilatory effect on the expeditious or orderly process of a meeting. The Presiding Officer may order the removal from a public meeting any person that interferes with the expeditious or orderly process of such meeting, provided that a warning has first been issued that continued interference with the orderly process of the meeting shall result in removal. Any law enforcement officer or sergeant-at-arms designated by the Presiding Officer shall remove any person that has been ordered to be removed. (Reference: section 2-210.1, Code of Ordinances)

**4.3 Points of Order:** The Presiding Officer shall determine all points of order, subject to the right of any member to appeal the determination to the City Commission. A majority of the City Commission sitting and eligible to vote shall be required to reverse a ruling of the Presiding Officer.

**4.4 Voting:** Voting on all ordinances and resolutions shall be by roll call vote in accordance with Rule 2.6 and shall be recorded in the minutes of the meeting. A majority of the City Commission shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the City Commission. No action of the City Commission, except as otherwise provided in these rules and in Section 3.07 of the City Charter, shall be valid or binding unless adopted by the affirmative vote of the majority of the quorum present. (Reference: section 3.08, Charter; section 161.041(4), Florida Statutes)

### **4.5 Comments by the General Public.**

(a) Any member of the general public that desires to speak during Consent Agenda (as permitted by these Rules), Public Hearings, First Reading of Ordinances, Second Reading of Ordinances, Resolutions, Audience Remarks, Staff Action Items, Discussion Items (as permitted by these Rules), and during any other portion of the Agenda as may be permitted by the City Commission, must complete and provide a “sign-up” card to the City Clerk prior to the time the City Commission calls up for business the particular section on the Agenda during which the member of the public wishes to speak. Members of the general public shall at all times fully comply with all rules established by the City Commission, whether such rules are written or oral.

(b) Each person addressing the City Commission shall approach the microphone, shall give his or her name and address and the organization or group they represent if any, in an audible tone of voice for the record. All remarks shall be addressed to the Presiding Officer, on behalf of the City Commission, and not to any member thereof.

(c) Any person making personal, impertinent or slanderous remarks, or who shall become boisterous or use offensive language, while addressing the City Commission, may be requested to leave the meeting. No reference by name to any individual present or absent, including commission members and city staff, shall be used in a derogatory or offensive manner by any person addressing the City Commission. All participants and speakers shall refrain from belittling or insulting remarks or making personal attacks.

(d) Unless otherwise provided by these rules or by majority consent of the City Commission, comments by a member of the general public shall be limited to no more than three (3) minutes.

## **RULE 5. ORDER OF BUSINESS.**

**5.1 Order of Business:** The general rule as to the order of business in regular meetings shall be as follows:

- (a) Call to order (7:00 p.m.)
- (b) Invocation
- (c) Pledge of Allegiance
- (d) Presentations and Proclamations
- (e) Audience Remarks (limited to 30 minutes)
- (f) Approval of Minutes
- (g) Community Redevelopment Agency
- (h) Consent Agenda
- (i) Public Hearings
- (j) First Reading of Ordinances
- (k) Second Reading of Ordinances
- (l) Resolutions
- (m) Staff Action Items
- (n) Discussion Items
- (o) Audience Remarks (continued, if necessary)
- (p) Reports, Suggestions, Requests (Mayor, City Commission, City Manager, City Attorney)
- (q) Adjournment

**5.2 Agenda:** The order of business of each regular meeting shall be as contained in the Agenda. The Agenda shall be a listing by topic of subjects to be considered by

the City Commission. The agenda process established by the City Manager, City Attorney, and City Clerk shall govern all requests for the placement of items on the agenda.

**(a) Audience Remarks:** The Audience Remarks section of the Agenda shall begin after Presentations and Proclamations and shall be limited to 30 minutes. In the event too few members of the general public wish to speak during the time allocated for Audience Remarks, the city commission shall proceed to call up the other matters of business on the Agenda at the conclusion of Audience Remarks. In the event more members of the general public wish to speak than can be accommodated within the time allocated for the Audience Remarks section of the Agenda, those remaining members of the general public shall be allowed to speak at the conclusion of the Discussion Items section of the Agenda.

Unless otherwise prohibited by these Rules, any member of the general public may speak about any subject that is not on the Agenda during the Audience Remarks section of the Agenda in accordance with the requirements of Rule 4.5. Comments by members of the general public shall be limited to no more than three (3) minutes, unless additional time is allowed by the City Commission.

**(b) Consent Agenda:** The Consent Agenda is intended to dispose of routine matters in an expeditious manner and shall consist of items that are expected to be non-controversial in nature, the subject matter of which may be disposed of by Resolution, and that does not require a public hearing. There shall be no separate discussion of Consent Agenda items unless a member of the City Commission requests an item be removed for separate consideration, or an item has been removed at the request of a member of the public. Members of the public shall be entitled to provide comments on any item that has been removed from the Consent Agenda, subject to compliance with all rules established by the City Commission, whether such rules are written or oral. Any member of the City Commission may request that one or more items be considered separately from all other items on the Consent Agenda. The City Commission may dispose of all items under the Consent Agenda by one motion, which motion must have a second, followed by a roll call vote. (*Reference: section 3.08(c), Charter; section 166.041(4), Florida Statutes*)

**(c) Resolutions:** A Resolution means an expression by the City Commission concerning matters of administration, an expression of a temporary character, or a provision for the disposition of a particular item of business (i.e., such as the approval of a contract, amended contract, purchase requisition or change order). A Resolution item that is expected to be controversial in nature shall be placed on the Agenda under the caption for “Resolutions”. Members of the public shall be entitled to provide comments on any Resolution on the Agenda, subject to compliance with all rules established by the City Commission, whether such rules are written or oral. (*Reference: 166.041, Florida Statutes*)

**(d) Ordinances:** An Ordinance means an official legislative action of the City Commission, which action is a regulation of a general and permanent nature and is enforceable as a local law, and which has been adopted in accordance with section 166.041, Florida Statutes



and/or other applicable law. Members of the public shall be entitled to provide comments on any Ordinance on the Agenda, subject to compliance with all rules established by the City Commission, whether such rules are written or oral. (Reference: section 166.041, Florida Statutes)

(e) **Public Hearings:** A public hearing shall be held regarding any subject matter for which a public hearing is required by general or special law, or the city's Charter or Ordinances, or any other matter at the discretion of the City Commission. Members of the public shall be entitled to provide comments on any matter that is the subject of a public hearing, subject to compliance with all rules established by the City Commission, whether such rules are written or oral.

(f) **Staff Action Items:** Staff Action Items are intended to dispose of matters that are not commonly the subject of the consent agenda (including City Manager disposition reports), resolutions, ordinances, or public hearings, and that require discussions and a vote. Members of the public shall be entitled to provide comments on any Staff Action Item on the agenda, subject to compliance with all rules established by the City Commission, whether such rules are written or oral.

(g) **Discussion Items:** Members of the public shall be permitted to speak during the Discussion Items portion of the agenda on matters on which the City Commission will take official action. Comments by a member of the general public shall be limited to no more than three (3) minutes, unless additional time is allowed by the City Commission.

(h) **Reports, Suggestions, Requests:** Members of the public shall not be entitled to provide comments to any matter under the *Reports, Suggestions, Requests* portion of the Agenda unless the item is to be voted upon by the City Commission.

## **RULE 6. MOTIONS AND DEBATE.**

**6.1 Main Motions:** Motions that bring business before the City Commission (Example: a motion to approve a Resolution or Ordinance). Main Motions require a second.

**6.2 Secondary Motions:** Motions are made while a Main Motion is pending, such as motions to amend, or post-pone, or pertaining to procedural matters or these rules. Secondary Motions take precedence over Main Motions and must be addressed prior to Main Motions. Secondary Motions will usually, but not always, require a second.

**6.3 Right to Floor:** Any member of the City Commission desiring to speak shall first be recognized by the Presiding Officer, and shall confine his or her remarks to the subject under consideration or to be considered.

#### **6.4 Motion on the Floor.**

(a) A motion must be properly made (i.e., “on the floor”) in order for debate to ensue. The Presiding Officer may not make or second a motion. If there is no motion or no second to a motion that requires a second, then the matter dies for lack of a motion or the motion dies for “lack of a second.” A motion should be made in the affirmative (“to approve”) when at all possible.

(b) Where large groups or crowds requested time to address a particular item, the Presiding Officer may request that one or more representatives speak on behalf of the group in order to ensure the expeditious and orderly progression of business. Comments by a representative speaking on behalf of a group shall not exceed five (5) minutes unless allowed by the commission.

#### **6.5 Specific Types of Motions:**

(a) **Motion to Postpone (indefinitely):** This is a motion that should be made when the City Commission declines to take a position on a Main Motion. Its adoption essentially *kills* the Main Motion for the duration of the meeting and avoids a direct vote on the matter. The motion may only be made while a Main Motion is immediately pending. It is out of order when another member has the floor, it *must be seconded*, it is not amendable, and it *is* debatable. The debate may go to the merits of the Main Motion.

(b) **Motion to Postpone (to a time certain):** This is a motion by which action on a pending question may be put off within limits, to a definite day, meeting, hour, or until a certain event. This motion takes precedence over the main motion and any subsidiary motions (such as motions to amend). It is out of order when another member has the floor, it *must be seconded* and *is* debatable; however, the debate is *limited* in that it may not go into the main question any more than is necessary to reach a decision as to whether and when the main question should be postponed. It is amendable as to the time the matter should be postponed.

(c) **Motion to (lay on the) Table:** This motion enables a pending question to be *temporarily* laid aside at the meeting when there is another urgent matter that should be addressed; and it can be taken up again at the will of the majority. It takes precedence over all other motions, is out of order when another member has the floor, *must be seconded*, is not amendable, and is *not* debatable. (*Roberts Rules of Order* notes that this motion is often mistakenly used as a motion to postpone indefinitely or to a time certain.) The motion may be a Main or Secondary Motion.

(d) **Motion for Reconsideration:** A procedural motion that allows an item that has been voted on to be brought back before the City Commission for further consideration to correct erroneous action or to take into account additional information or a changed situation that has developed since the taking of the vote. The effect of the motion is the suspension of all action that depends on the result of the vote proposed to be reconsidered until the City Commission takes up the motion. The motion should be made within a reasonable period time from which the vote was taken. The City Commission shall in its sole discretion determine what constitutes a

reasonable period of time. The motion may *only* be made by one who voted on the *prevailing* side of the matter. Once made, any other person may *second the motion*, regardless of whether or not such person voted on the prevailing side of the original measure. The motion must be approved by majority vote of those present and voting; and, if approved, the effect of such approval is that the matter in question reverts to the same status it held immediately preceding the original vote. If a motion to reconsider is not approved, **then the motion dies and it may *not* be reconsidered again**. Certain matters may not be reconsidered, such as: (i) approval of contracts, (ii) matters upon which affected parties have acted in detrimental reliance on the commission’s vote, (iii) an affirmative vote whose provisions have been partly carried out, and (iv) a vote that has caused something to be done that cannot be undone.

If a Motion to Reconsider is approved, a motion to approve the particular matter at issue should be made and a vote taken thereon.

(e) **Motion for Point of Order.** A motion to ask the Presiding Officer to follow these Rules; or to require the City Commission to follow the order of business in the order set forth on the Agenda; or to make an inquiry regarding parliamentary rules; or to invoke the *Thompson Rule*. These motions *do not require a second*.

(f) **Motion to Invoke the “Thompson Rule”.** Whenever a matter is presented to the City Commission under the *Audience Remarks, Staff Action Items, Discussion Items, or Reports, Suggestions, Requests* portion of the Agenda, without any written factual documentation in support of the matter having been delivered to the members of the City Commission at least seventy-two (72) hours prior to the meeting, and such written factual documentation is necessary and appropriate for the proper consideration of the matter, the City Commission shall take no formal action thereon unless and until such supporting written documentation is presented to, and duly considered by, the City Commission at a subsequent meeting. The foregoing notwithstanding, this rule may be waived, entitling the City Commission to take formal action thereon, but only upon: (i) the affirmative vote of at least four (4) City Commission members when all five (5) members are present; or (ii) a unanimous vote if less than five (5) City Commission members are present. This motion *does not require a second*. Upon the approval of a motion to waive the *Thompson Rule*, the substantive matter may be considered in accordance with the applicable rules and general law.

## **RULE 7. ACCESS TO MEMBERS OF THE CITY COMMISSION REGARDING LAND-USE MATTERS THAT ARE TO BE THE SUBJECT OF QUASIJUDICIAL PROCEEDINGS**

### **7.1 Access to Local Public Officials:**

(a) **Discussions with commission members.** Any person not otherwise prohibited by statute, charter provision, or ordinance may discuss with any member of the City Commission the merits of any matter on which action may be taken by the commission and

compliance with the following procedures shall remove the presumption of prejudice arising from such ex parte communications:

**(i) No presumption of prejudice.** The substance of any ex parte communication with a member of the City Commission that relates to quasijudicial action pending before the City Commission is not presumed prejudicial to the action if the subject of the communication and the identity of the person, group, or entity with whom the member of the City Commission took place is disclosed and made a part of the record before final action on the matter.

**(ii) Reading written communications.** A member of the City Commission may read a written communication from any person. However, a written communication that relates to quasijudicial action pending before the City Commission shall not be presumed prejudicial to the action and such written communication shall be made part of the record before final action on the matter.

**(iii) Conducting site visits/investigations.** Members of the City Commission may conduct investigations and site visits and may receive expert opinions regarding quasijudicial action pending before them. Such activities shall not be presumed prejudicial to the action if the existence of the investigation, site visit, or expert opinion is made a part of the record before final action on the matter.

**(iv) Disclosure requirements.** Disclosure made pursuant to paragraphs (i), (ii) and (iii), above, must be made before or during the public meeting at which a vote is taken on such matters, so that persons who have opinions contrary to those expressed in the ex parte communication are given a reasonable opportunity to refute or respond to the communication.

**(b) Non-party or non-party intervener testimony.** Notwithstanding the provisions of subsection (a), above, in a quasijudicial proceeding on a land use matter, a person who appears before the City Commission who is not a party or party-intervenor and/or does not own land that abuts or will be directly affected by a land use matter may at the discretion of the City Commission be allowed to testify, subject to the rules of the City Commission, and may be requested to respond to questions from the City Commission, but need not be sworn as a witness, is not required to be subject to cross-examination, and is not required to be qualified as an expert witness. The City Commission shall assign weight and credibility to such testimony as it deems appropriate. A party or party-intervenor in a quasijudicial proceeding on a land-use matter, upon request by another party or party-intervenor, shall be sworn as a witness, shall be subject to cross-examination by other parties or party-intervenors, and shall be required to be qualified as an expert witness, as appropriate. A party or party-intervenor shall be allowed no more than twenty (20) minutes to present their case-in-chief to the City Commission (excluding cross-examination of witnesses and rebuttal testimony); however, the City Commission may by majority consent allow additional time, which shall not be unreasonably withheld.

**(i) Communications with commission members.** In a quasijudicial proceeding on a land use matter, a person may not be precluded from communicating directly with

a member of the City Commission by application of ex parte communication prohibitions. Disclosure of such communications by a member of the City Commission is not required, and such nondisclosure shall not be presumed prejudicial to the decision of the City Commission. All decisions of the City Commission in a quasijudicial proceeding on a land-use matter must be supported by substantial, competent evidence in the record pertinent to the proceeding, irrespective of such communications.

**(ii) Party intervenor requirements.** Any person who is not a party to a quasijudicial proceeding on a land-use matter, who has a substantial interest in the proceeding, and who desires to become a party-intervenor may petition the City Commission for leave to intervene. Petitions for leave to intervene must be filed with the City Clerk at least five (5) days before the public hearing, shall include the name and address of the petitioner, and shall also include allegations sufficient to demonstrate that the petitioner is entitled to participate in the proceeding as a matter of constitutional or statutory right, or that the substantial interests of the petitioner are subject to determination or will be affected through the proceeding. If such a petition is filed, the City Commission shall consider and act thereon prior to opening the public hearing on the merits of the matter. The City Commission may receive testimony relative to the petition from the petitioner and any party prior to acting on the petition. An affirmative decision by a majority of the members of the City Commission present and voting shall be required in order to grant a petition to become a party-intervenor. (*Reference: section 2-210, Code of Ordinances; section 286.0115, Florida Statutes*)

**(iii) Quasi-judicial proceeding.** For purposes hereof, the term “quasi-judicial proceeding on a land-use matter” means a proceeding that has an impact on a limited number of persons or property owners, on identifiable parties and interests, where the decision is contingent on a fact or facts arrived at from distinct alternatives presented at a hearing, and where the decision can be functionally viewed as policy applications, rather than policy setting. Such proceedings shall include, without limitation, variance requests, enforcement actions involving the land development code, re-zonings initiated by the city that involve a parcel or parcels of land involving less than ten (10) contiguous acres, and appeals as allowed by the land development code. (*Reference: section 2-201, Code of Ordinances*)

**(iv) Sunshine law requirements.** Persons desiring to communicate with members of the city commission shall at all times be cognizant of, and comply with, the sunshine law requirements that apply to members of the city commission.

**(v) Members of the general public.** Except as provided in paragraph (b) of this section members of the general public shall not be entitled to speak at quasi-judicial public hearings. Comments by members of the general public shall be limited to no more than three (3) minutes.

## **RULE 8. CONFLICTS OF INTEREST; PUBLIC DISCLOSURE.**

**8.1 Abstention from voting.** No member of the City Commission may abstain from voting except when there is, or appears to be, a possible conflict of interest under the provisions of sections 112.311, 112.313, or 112.3143, Florida Statutes. In such cases, the abstaining member shall comply with the disclosure requirements of section 112.3143, Florida Statutes. (*Reference: section 286.012, Florida Statutes*)

**8.2 Voting; special private gain or loss.** No member of the City Commission shall vote in an official capacity upon any measure that would inure to his or her special private gain or loss; which he or she knows would inure to the special private gain or loss of any principal by whom he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained, other than an agency as defined in section 112.312(2), Florida Statutes; or which he or she knows would inure to the special private gain or loss of a relative or business associate. Such member shall, prior to the vote being taken, state the nature of the interest in the matter from which he or she is abstaining and within fifteen (15) days after the vote occurs file with the city clerk a written memorandum of disclosure. (*Reference: section 112.3143(3)(a), Florida Statutes*)

**8.3 Participation; special private gain or loss.** No member of the City Commission shall participate in any matter which would inure to his or her special private gain or loss; which he or she knows would inure to the special private gain or loss of any principal by whom he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained; or which he or she knows would inure to the special private gain or loss of a relative or business associate of the member without first disclosing the nature of his or her interest in the matter. Such member shall, prior to the meeting, file with the city clerk a written memorandum indicating the nature of the conflict; however, in the event that written disclosure has not been made prior to the meeting or any conflict is unknown prior to the meeting, the disclosure shall be made orally at the meeting and a written memorandum of disclosure shall be filed with the city clerk within fifteen (15) days of the oral disclosure. For purposes hereof, the term “participate” means any attempt to influence the decision by oral or written communication. (*Reference: section 112.3143(4), Florida Statutes*)

## **RULE 9. SUSPENSION AND AMENDMENT OF RULES.**

**9.1 Suspension of Rules:** Any provision of these rules not governed by the city’s Charter or Ordinances, or other law, may be temporarily suspended by majority vote of the members of the City Commission.

**9.2 Amendment of Rules:** Any provision of these rules not governed by the city’s Charter or Ordinances, or other law, may be amended, or repealed, or new rules adopted, by a majority vote of the members of the City Commission.

**SECTION TWO.** This Resolution shall take effect immediately upon its adoption.

**APPROVED AND AUTHENTICATED this 17<sup>th</sup> day of November, 2020.**

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**BILL PARTINGTON**  
Mayor

**ATTEST:**

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**COLBY CILENTO**  
City Clerk