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BYLAWS

OF THE

TALLAHASSEE-LEON

COUNTY PLANNING COMMISSION

These Bylaws govern the actions of the Tallahassee-Leon County Planning Commission in its capacity as the Planning Commission, the Local Planning Agency, and the Land Development Regulation Commission.

Adopted by the Planning Commission on 6/26/96, amended: 11/3/97, 1/10/00, 5/16/01, 12/3/01, 11/3/03; 5/01/07
Approved by the City Commission on 7/10/96, 11/25/97, 3/8/00, 10/24/01, 4/24/02, 12/10/03; 5/01/07
Approved by the County Commission on 7/17/96, 11/18/97, 2/22/00, 10/30/01, 4/9/02, 12/9/03

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1 **STATEMENT OF PURPOSE; HOW TO USE THESE BYLAWS**
2

3 *The Tallahassee-Leon County Planning Commission (hereinafter called "Planning*
4 *Commission") was duly established by virtue of an interlocal agreement dated September 26,*
5 *1967, between the County of Leon and the City of Tallahassee. This agreement designates the*
6 *Planning Commission as the entity responsible for comprehensive areawide planning within the*
7 *City of Tallahassee and Leon County. The Planning Commission is also the duly designated*
8 *Local Planning Agency and Land Development Regulation Commission pursuant to Chapter*
9 *163, Florida Statutes. Duties and responsibilities of the Planning Commission are set forth in*
10 *the interlocal agreement, these Bylaws, and the ordinances of the City of Tallahassee and Leon*
11 *County.*

12
13 *These Bylaws set forth the procedure to be followed and adhered to by the Planning*
14 *Commission in discharging its assigned duties and responsibilities and by all persons bringing*
15 *matters before the Planning Commission. The provisions of Part I govern the activities of the*
16 *Planning Commission when it sits as the Planning Commission and as the Land Development*
17 *Regulation Commission. The provisions of Part II govern the activities of the Planning*
18 *Commission when it sits as the Local Planning Agency. To the extent applicable, the provisions*
19 *of Part I shall also govern the activities of the Local Planning Agency. In the event that specific*
20 *provisions in Part II are in direct conflict with the provisions in Part I, the provisions of Part II*
21 *shall control as to the activities of the Local Planning Agency.*

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PART I
TALLAHASSEE-LEON COUNTY PLANNING
COMMISSION

ARTICLE I - DEFINITIONS

As used in these Bylaws:

- (a) "Appeal" means a de novo quasi-judicial proceeding to review the decision of a City or County official or committee. In such a review no presumption of correctness is afforded to the decision under review.
- (b) "Applicant" means the person filing an application for approval of a site plan, plat, rezoning or other action to be taken by the City, County or Planning Commission.
- (c) "City" means the City of Tallahassee.
- (d) "Commission" means the Tallahassee-Leon County Planning Commission unless the context of the sentence implies that the reference is to the Tallahassee City Commission or the Leon County Commission.
- (e) "County" means Leon County.
- (f) "Days" means working days, unless otherwise stated.
- (g) "De novo proceeding" means a quasi-judicial proceeding wherein the parties submit testimony and evidence in support of their position and the reviewing body evaluates the issues raised in a petition as if they were being reviewed for the first time.
- (h) "Documentary evidence" means any document, memorandum, letter, expert or lay report, resume, data, chart, diagram, survey, drawing or other writing whether printed or on computer disk, any video or audio tape, film, slide, overhead projection or photograph.
- (i) "Development Review Committee" or "DRC" means the Development Review Committee of the City of Tallahassee or of Leon County, as applicable.
- (j) "Filing" means received in hand by the Clerk of the Planning Commission. Mere placing in the U.S. Mail does not constitute filing.
- (k) "Greater impacts" means an increase in the effects of a project upon infrastructure or natural resources. An example of a "greater impact" is a change in a residential plat that increases the number of units, lots, or impervious area.
- (l) "Local Planning Agency" or "LPA" means the entity responsible for preparation of the Comprehensive Plan and amendments for approval by the City of Tallahassee and Leon County and performance of other duties of a local planning agency as provided in

1 Chapter 163, Florida Statutes, the Ordinances of the City of Tallahassee and Leon
2 County, and these Bylaws.

- 3
- 4 (m) "Party" means the applicant, the local government with jurisdiction, or any person who
5 will suffer an adverse effect to an interest protected or furthered by the comprehensive
6 plan, including interests related to health and safety, police and fire protection service
7 systems, densities or intensities of development, transportation facilities, health care
8 facilities, equipment or services, or environmental or natural resources. The alleged
9 adverse effects may be shared in common with other members of the community at large,
10 but shall exceed in degree the general interest in community good shared by all persons.
11
- 12 (n) "Person" means a person, corporation, partnership, association, unit of government or
13 organization.
14
- 15 (o) "Petitioner" means a person who files a petition for quasi-judicial proceedings and who
16 qualifies as a party.
17
- 18 (p) "Planning Commission" means the Tallahassee-Leon County Planning Commission.
19
- 20 (q) "Quasi-judicial proceeding" means a proceeding that results in a decision having an
21 impact on a limited number of persons or property owners, or identifiable parties and
22 interests, where the decision is contingent on a fact or facts arrived at from distinct
23 alternatives presented at a hearing, and where the decision can be viewed as policy
24 application rather than policy setting.
25
- 26 (r) "Rendered" means when a decision is reduced to writing and formally delivered or filed.
27 In the case of an order of the Planning Commission, the order shall be rendered when it is
28 date stamped by the Clerk of the Planning Commission.
29
- 30 (s) "Respondent" means a party who is opposing the position taken by the petitioner.
31
- 32 (t) "Substantially different impacts" means effects from a development that cannot be
33 reasonably anticipated to occur based on the public notice given. An example of a
34 "substantially different impact" is a change in a mixed-use project that eliminates a
35 commercial use and substitutes it with an office use. Although the effect may not be
36 greater, it will be substantially different from what was anticipated by the public notice.
37 A reduction within zoning categories to a lesser-included use will not be considered a
38 different impact.
39
40

41 **ARTICLE II - MEMBERSHIP, TERMS, MEETINGS AND OFFICES**

42

43 **Section 1. Membership.** The Planning Commission is composed of three members appointed
44 by the Board of County Commissioners of Leon County, three members appointed by the City
45 Commission of the City of Tallahassee and one member selected by the School Board of Leon
46 County and appointed by the City and County Commissions. A member who wishes to resign

1 prior to the completion of his or her term shall submit a letter of resignation to the appointing
2 body stating the effective date of the resignation.

3
4 Members serve at the pleasure of the governing body that appointed them. Reasons for
5 termination of a member include the following: 1) (a) for City appointees, the member no longer
6 resides or owns property within the City limits, or is no longer a City Utility customer; (b) for
7 County and School Board-selected appointees, the member no longer resides in Leon County; 2)
8 the member is absent for two of three successive regularly scheduled meetings; or 3) the member
9 has frequent conflicts of interest.

10
11 The Clerk of the Planning Commission shall provide a report to the City Commission, County
12 Commission and School Board by the 15th of each month, setting forth the attendance of each
13 Planning Commissioner for the prior month.

14
15 **Section 2. Terms.** Planning Commissioners shall serve for a term of three years, unless
16 terminated as provided in Section 1, and may be reappointed.

17
18 **Section 3. Regular Meetings.** The Planning Commission shall hold regular meetings in
19 accordance with a schedule to be approved by the Planning Commission in November of each
20 year. An approved schedule may be altered within the calendar year upon vote of the Planning
21 Commission. All meetings shall be open to the public.

22
23 The Planning Commission will usually vote on applications at the public hearing where the
24 matter is heard but may continue an item in accordance with applicable ordinances and
25 provisions of these Bylaws.

26
27 **Section 4. Special Meetings.** The Chair can call a special meeting of the Planning Commission
28 by actual notice to each member at least twenty-four hours in advance of the meeting. No action
29 shall be taken at a special meeting on an application pending before the Planning Commission
30 unless the public interest clearly requires action before the next regular meeting. If it is intended
31 that action be taken at such a meeting on an application pending before the Planning
32 Commission, the most effective and appropriate notice under the circumstances shall be given to
33 applicants and the public. However, no action on an application shall be taken at any special
34 meeting unless all notice requirements of applicable ordinances as to the public hearing have
35 been satisfied. As used in this section an "application" means an application pending before the
36 Commission but does not include action on motions that do not dispose of the application.

37
38 **Section 5. Place of Meetings.** The public hearings and meetings of the Planning Commission
39 shall be held in the City Commission Chambers, City Hall, the County Commission Chambers,
40 Leon County Courthouse, or such other appropriate room in City Hall or the County Courthouse.
41 Except in instances governed by Section 4 above, the Planning Commission may alter or modify
42 the place of any of its meetings by directing written notice of such meeting place change to the
43 parties with matters agendaed for such meeting and by publishing notice in the newspaper at
44 least three days before the scheduled meeting. Nothing herein shall preclude changes resulting
45 from unanticipated need to change the meeting locale. If a meeting locale must be changed, a

1 sign will be posted at the noticed location directing the public to the new meeting location.
2 Meetings shall be held in facilities that are readily accessible to all citizens.

3
4 **Section 6. Offices.** The offices of the Planning Commission shall be those of the Tallahassee-
5 Leon County Planning Department. The person in charge of said offices shall be the Director of
6 the Planning Department, or the Director's designated agent.

7
8 **ARTICLE III - QUORUM**

9
10 No acts or recommendations of the Planning Commission shall be made unless a quorum is
11 present. A quorum shall consist of four voting members. The presence at a meeting of a
12 Commissioner who has a voting conflict on a matter cannot be counted toward satisfying the
13 quorum requirement on the item in which that conflict exists. Proxy votes and absentee votes
14 shall not be allowed.

15
16 **ARTICLE IV - OFFICERS**

17
18 The Planning Commission shall elect one of its members as Chair for a term of one year. The
19 Planning Commission shall also elect one of its members as Vice-Chair for a term of one year.
20 The Chair shall preside at all meetings and shall sign official correspondence and orders. The
21 Vice-Chair shall serve as Chair in the absence of the elected Chair. The most senior member
22 present will serve as Chair in the absence of the elected Chair and Vice-Chair. Elections shall be
23 held in September of each year.

24
25 **ARTICLE V - PASSAGE OF MOTIONS OR MATTERS**

26
27 **Section 1. Motions or Matters for Regular Business.** At a duly assembled meeting of the
28 Planning Commission, no motion or matter pertaining to the regular business of the Planning
29 Commission shall be passed unless a majority of the members in attendance for the motion or
30 matter under consideration is recorded as voting in favor of the motion or matter. In those cases
31 where a majority vote in favor of a motion or matter is not recorded, the motion or matter shall
32 be recorded as being defeated. In case of a tie vote, the vote will be treated as: 1) a denial; or 2)
33 a recommendation for denial where, by ordinance, the Commission's action is to be in the form
34 of a recommendation to the City or County Commission.

35
36 **Section 2. Motions or Matters Amending Bylaws.** These Bylaws may be amended at a regular
37 or special meeting of the Planning Commission by affirmative vote of two-thirds of the members
38 appointed to the Commission. Proposed amendments may be approved by the Commission after
39 due notice and public hearing at a regular meeting of the Planning Commission. Due notice shall
40 consist of newspaper notice at least ten days in advance of the public hearing on the Bylaws.
41 Amendments to these Bylaws shall become effective only upon approval by the City and County
42 Commissions.

1 **ARTICLE VI - RECONSIDERATION**

2
3 **Section 1. Decisions Involving Applications Coming Before the Commission.** Upon
4 adjournment of a meeting at which a vote is taken on an application, the Planning Commission
5 ceases to have jurisdiction over an application. However, any vote on an application may be
6 reconsidered at any time prior to adjournment of the meeting at which the vote was taken, upon a
7 motion made by a member recorded as voting upon the prevailing side when the motion was
8 considered by the Planning Commission. The Planning Commission may require republication
9 of notice by the applicant. Reconsideration of an application may also be had upon remand of a
10 matter by the City or County Commission. In case of remand for reconsideration, the applicant
11 may be required to pay the cost of any new public notice required by the action.
12

13 **Section 2. Reconsideration of Other Decisions.** Reconsideration of any other motions shall be
14 governed by Robert’s Rules of Order, Revised.
15

16 **ARTICLE VII - CONTINUANCES**

17
18 The Planning Commission, by motion and affirmative vote, may elect to continue any matter
19 placed on the agenda for its consideration until a time certain within the time provided by
20 governing ordinances. With the applicant's consent, the Planning Commission, by affirmative
21 vote, may continue any matter placed on the agenda for its consideration to a time certain beyond
22 the requirements of the governing ordinances. If a quorum as defined in Article III is not present
23 at a Planning Commission meeting, the Clerk of the Planning Commission or (designated staff in
24 case of matters pertaining to the Local Planning Agency) shall announce the continuance or
25 rescheduling of the matters on the agenda until a time certain. Any time requirements in the
26 governing ordinances shall be taken into consideration in rescheduling.
27

28 **ARTICLE VIII - AMENDMENTS TO REQUESTS;**
29 **CONDITIONS GIVING RISE TO RE-NOTICE AND**
30 **ADDITIONAL PUBLIC HEARINGS ON AMENDMENTS**
31

32 **Section 1. Amendments to Applications.** An applicant may request to amend an application
33 before the Planning Commission only prior to close of its required public hearing. Any such
34 amendment may be made only in writing by the applicant or its representative, and the written
35 amendment must be received by the Planning Commission or its delegated agent, the
36 Tallahassee-Leon County Planning Department, prior to the close of the required public hearing.
37

38 The Planning Commission may consider an amendment at the same public hearing it is made,
39 provided the amendment does not result in substantially different or greater impacts than the
40 original request. If an amendment creates substantially different or greater impacts, the Planning
41 Commission will not consider the amendment unless the applicant is willing to grant a
42 continuance sufficient to allow consideration by the City of Tallahassee or Leon County
43 Development Review Committee ("DRC"), if applicable, and the holding of another public
44 hearing on the application as noted in Section 2 of this Article.
45
46

1 In instances where a change does not result in substantially different or greater impacts, if an
2 applicant or its representative amends its application which was not filed in time for substantial
3 consideration by the DRC, as applicable, the Planning Commission will not consider such
4 amendment unless the applicant is willing to request a continuance until after the amended
5 application has been reviewed by the DRC, as applicable.
6

7 Where there has been an amendment at the Planning Commission public hearing, the Planning
8 Department's staff will check the written amendments filed by an applicant to see that the
9 revision conforms to the amended application actually considered and voted upon favorably by
10 the Planning Commission. If any irregularities in this respect are discovered by staff, and are not
11 immediately corrected by the applicant: 1) in case of zoning amendment, the irregularities will
12 be reported to the City or County Commission, as appropriate; 2) in other cases, the Planning
13 Department will notify the applicant in writing that the document submitted does not conform to
14 the action by the Planning Commission.
15

16 **Section 2. Conditions Giving Rise to Re-Notice and Additional Public Hearing.** The
17 Planning Commission shall require the public notice of each application coming before the
18 Commission as required by the Ordinances of the City of Tallahassee and Leon County, Florida.
19 Re-notice and another public hearing also shall be required: 1) whenever an applicant requests
20 an extension (or extensions) of time causing the item to appear before the Commission more than
21 60 days after the original public hearing and no substantial progress has been made toward
22 resolution of pending issues raised; or 2) whenever there has been a change to an application
23 resulting in substantially different or greater impacts and the original notice is no longer
24 reasonably sufficient to inform the public of the essence and scope of the application under
25 consideration. Upon re-notice, the matter shall be placed upon the agenda of a scheduled
26 Commission public hearing. The method of re-notice shall be the same as the original notice. In
27 instances where re-notice is required by these Bylaws, such costs as may be incurred shall be
28 borne by the applicant. The Commission will act on the application at the public hearing or
29 continuation thereof. However, nothing in these Bylaws shall permit a zoning application to be
30 amended which results in a different zoning district than that which was originally submitted.
31 Such a change requires submittal of a new application and adherence to any waiting period
32 referred to in ordinances of Tallahassee and Leon County.
33
34

35 The Commission will not require re-notice and a new public hearing when the applicant has been
36 diligently working with staff to resolve issues raised unless the revisions to the application result
37 in substantially different or greater impacts of which the public is not aware.
38
39

40 **ARTICLE IX - PROCEDURES FOR**
41 **QUASI-JUDICIAL PROCEEDINGS**
42

43 **Section 1. Scope; Effect of Filing Petition for Quasi-judicial Proceedings on Decisions**
44 **(Subject to Review Under this Article) of the City of Tallahassee Land Use Administrator,**
45 **City of Tallahassee Director of Growth Management or Designee, City Development**
46 **Review Committee and Leon County Administrator or Designee; Quasi-Judicial**

1 **Proceedings; Applicability of Article IX; Who May Initiate Quasi-judicial Proceedings;**
2 **Representation; Filing Deadlines; De Novo Review; Status of Other Parties; Where to File;**
3 **Filing Deadlines Jurisdictional; Copies; Required Contents of Petition for Quasi-judicial**
4 **Proceedings; Filing Fees; Notice of Filing Requirements; Determination of Standing;**
5 **Motion to Dismiss; Dismissal by Clerk of the Planning Commission; Intervention.**

6
7 *Scope: Except where exempted or modified by Article XV of this Part, this Article sets*
8 *forth the procedures that govern quasi-judicial proceedings of the Planning Commission.*
9 *Determinations of the City of Tallahassee and Leon County to which this Article applies are as*
10 *follows:*

11
12 *1) City of Tallahassee – appeals of decisions on Type A and Type B Site Plans,*
13 *certificates of exemption in connection with a governmental right-of-way taking, preliminary*
14 *plats, and limited partitions; and action by the Planning Commission on Developments of*
15 *Regional Impact, Florida Quality Developments, rezonings (official zoning map amendments)*
16 *and Type C and D Site Plans.*

17
18 *2) Leon County – appeals of decisions on certificates of exemption in connection with a*
19 *governmental right-of-way taking or an interpretation of district boundaries with respect to the*
20 *official zoning map; and action by the Planning Commission on Type D Reviews, Developments*
21 *of Regional Impact or Florida Quality Developments and rezonings (official zoning map*
22 *amendments).*

23
24 **(a) Effect of Filing Petition for Quasi-judicial Proceedings on Decisions (Subject to Review**
25 **Under this Article) of the City of Tallahassee Land Use Administrator, City of Tallahassee**
26 **Director of Growth Management or Designee, City Development Review Committee, and**
27 **Leon County Administrator or Designee.** Decisions of the City of Tallahassee Land Use
28 Administrator, the City of Tallahassee Director of Growth Management or Designee, the City
29 Development Review Committee, and the Leon County Administrator or Designee, which are set
30 forth above, are subject to quasi-judicial proceedings by the Planning Commission under this
31 Article.

32
33 Such decisions shall be final fifteen calendar days (thirty calendar days if the project is located
34 within the City) after they are rendered unless a party timely files a petition for quasi-judicial
35 proceedings together with the appropriate filing fee. Should a party petition for quasi-judicial
36 proceedings, the decision under review will become proposed action until the final decision is
37 made, after conducting a de novo quasi-judicial proceeding.

38
39 **(b) Quasi-Judicial Proceedings.** Pursuant to authority granted by ordinance, the Planning
40 Commission acts on recommended orders entered by Administrative Law Judges who have
41 conducted quasi-judicial hearings on certain matters coming before the Commission that involve
42 the application of a general rule or policy, as set out below.

43
44 1. City of Tallahassee
45

- 1 a. Render a final decision on a recommended order from the Administrative
2 Law Judge on an appeal of a determination of the Director of Growth
3 Management or Designee on a Type A site plan.
4
- 5 b. Render a final decision on a recommended order from the Administrative
6 Law Judge on an appeal of a determination of the Development Review
7 Committee on a Type B site plan.
8
- 9 c. Render a recommendation on a recommended order from the
10 Administrative Law Judge on a Development of Regional Impact or a
11 Florida Quality Development.
12
- 13 d. Render a recommendation on a recommended order from the
14 Administrative Law Judge on a rezoning (official zoning map
15 amendment).
16
- 17 e. Render a final decision on a recommended order from the Administrative
18 Law Judge on an appeal of a determination of the Land Use Administrator
19 on a certificate of exemption in connection with a governmental right-of-
20 way taking.
21
- 22 f. Render a final decision on a recommended order from the Administrative
23 Law Judge on an appeal of a determination of the Development Review
24 Committee on a preliminary plat.
25
- 26 g. Render a final decision on a recommended order from the Administrative
27 Law Judge on an appeal of a determination of the Director of Growth
28 Management on a limited partition.
29
- 30 h. Render a final decision on a recommended order from the
31 Administrative Law Judge on a Type C site plan.
32
- 33 i. Render a recommendation on a recommended order from the
34 Administrative Law Judge on a Type D site plan.
35

36 2. Leon County
37

- 38 a. Render a final decision on a recommended order from the Administrative
39 Law Judge on an appeal of a determination of the County Administrator or
40 designee on a certificate of exemption in connection with a governmental
41 right-of-way taking or an interpretation of district boundaries with respect
42 to the official zoning map.
43
- 44 b. Render a recommendation on a recommended order from the
45 Administrative Law Judge on a Type D Review, Development of Regional
46 Impact or Florida Quality Development.

1
2 c. Render a recommendation on a recommended order from the
3 Administrative Law Judge on a rezoning (official zoning map
4 amendment).
5

6 **(c) Applicability of Article IX.** Article IX will be invoked automatically whenever a petition
7 for quasi-judicial proceedings has been timely filed and the fee timely paid unless the parties to
8 the proceeding choose to waive any aspect of the right to quasi-judicial proceedings.
9

10 **(d) Who May Initiate Quasi-judicial Proceedings; Representation.** Quasi-judicial
11 proceedings may be initiated by the applicant, the local government with jurisdiction or persons
12 who will suffer an adverse effect to an interest protected or furthered by the comprehensive plan,
13 including interests related to health and safety, police and fire protection service systems,
14 densities or intensities of development, transportation facilities, health care facilities, equipment
15 or services, or environmental or natural resources. The alleged adverse effect to an interest may
16 be shared in common with other members of the community at large, but shall exceed in degree
17 the general interest in community good shared by all persons. A party may appear in any quasi-
18 judicial proceeding without being represented by an attorney but an attorney may represent a
19 party in any proceeding.
20

21 **(e) Filing Deadline for Appeals of Decisions of the City of Tallahassee Land Use**
22 **Administrator, City of Tallahassee Director of Growth Management, City Development**
23 **Review Committee, and Leon County Administrator or Designee; De Novo Review.** To
24 initiate an appeal (see (b)1.a, b, e, f, g, and 2.a above), a petition for quasi-judicial proceedings
25 must be filed and the corresponding filing fee must be paid within fifteen calendar days (thirty
26 calendar days if the project is located within the City) after the decision sought to be appealed is
27 rendered. All appeals will be conducted as de novo proceedings.
28

29 **(f) Filing Deadline for Planning Commission Decisions or Recommendations; De Novo**
30 **Review.** For the County, to initiate quasi-judicial proceedings where the Planning Commission
31 will make the original decision or recommendation (see (b) 2.b, and c above), a petition for
32 quasi-judicial proceedings together with the appropriate filing fee must be filed within fifteen
33 calendar days of publication of notice of the Planning Commission Public Hearing on the
34 application in a newspaper of general circulation. All such reviews will be conducted as de novo
35 proceedings.
36

37 For the City, to initiate quasi-judicial proceedings where the Planning Commission will make the
38 original decision (see (b)1.h above), a petition for quasi-judicial proceedings together with the
39 appropriate filing fee must be filed within thirty days after the preliminary decision of the
40 Planning Commission is rendered. To initiate quasi-judicial proceedings where the Planning
41 Commission will make a recommendation (see (b)1.c,d, and i above), a petition for quasi-judicial
42 proceedings together with the appropriate filing fee must be filed within fifteen days after the
43 preliminary decision of the Planning Commission is rendered. All such quasi-judicial
44 proceedings will be conducted as de novo proceedings.
45
46

1 **(g) Status of Other Parties.** A local government with jurisdiction and an applicant who is not
2 contesting a recommendation or decision need not file a notice of intent or petition for quasi-
3 judicial proceedings to appear as a party. They are automatically granted party status. However,
4 an applicant seeking to appeal a decision must file a petition for quasi-judicial proceedings.
5

6 **(h) Where to File; Filing Deadlines Jurisdictional; Copies.** The petition must be filed
7 (stamped received) in the office of the Clerk of the Planning Commission within the time periods
8 referenced above and a copy must be filed with the Planning Commission Attorney the same
9 day. Failure to file the petition (together with the filing fee for filing the petition described in (i)
10 below) with the Clerk of the Planning Commission within the time period specified in these
11 Bylaws will result in waiver of the right to a quasi-judicial proceeding and dismissal of the
12 petition. A copy of the petition must be mailed or delivered to the applicant.
13

14 **(i) Required Contents of the Petition for Quasi-judicial Proceedings; Filing Fees; Notice of**
15 **Filing Requirements.** All petitions for quasi-judicial proceedings must be in writing. A petition
16 must be filed on the form that appears in Appendix I. The form must be accompanied by a non-
17 refundable filing fee of \$150.00 and shall have attached to it a copy of the decision which is
18 sought to be reviewed in a quasi-judicial proceeding. If a petition will be filed by more than one
19 person, each additional person may join in the petition for an additional filing fee of \$25.00. (In
20 such case, a joint petition shall be filed). However, nothing herein precludes the filing of
21 separate petitions by persons who wish to pay the full filing fee. The petition must include:
22

23 1) The title or name of the person or entity making the determination being appealed
24 under Section 1. (e) above or the recommendation being proposed under Section 1. (f)
25 above, the date the determination or recommendation was rendered, or public notice
26 given in case of review under Section 1.(f) and the entity's file or identification number,
27 if known;

28 2) The name, address, and telephone and facsimile number of the petitioner and the
29 applicant, if different from the petitioner; the name, address, and telephone and facsimile
30 number of the petitioner's representative, if any, which shall be the address of the
31 petitioner for mailing purposes during the course of the proceeding;
32

33 3) An explanation of how each petitioner's substantial interests will be adversely affected
34 by the determination or proposed recommendation. (To be entitled to quasi-judicial
35 proceedings, the petitioner must be a person who will suffer an adverse effect to an
36 interest protected or furthered by the comprehensive plan, including interests related to
37 health and safety, police and fire protection service systems, densities or intensities of
38 development, transportation facilities, health care facilities, equipment or services or
39 environmental or natural resources. The alleged adverse effect may be shared in common
40 with other members of the community at large, but must exceed in degree the general
41 interest in community good shared by all persons);

42 4) A statement of when and how the petitioner received notice of the determination or
43 proposed recommendation;

44 5) A statement of all disputed issues of material fact. If there are none, the petition must
45 so indicate;

1 6) A concise statement of the ultimate facts alleged, including the specific facts the
2 petitioner contends warrant reversal or modification of the determination or proposed
3 recommendation;

4 7) A statement of the specific Code provisions the petitioner contends require reversal or
5 modification of the determination or proposed recommendation;

6 8) A statement of the relief sought by the petitioner, stating precisely the action petitioner
7 wishes the Commission to take with respect to the determination or proposed
8 recommendation;

9 9) The signature of each petitioner or his or her attorney and the date of filing of the
10 petition; and

11 10) A certificate of service as provided in Section 2 below.

12 Notice of the filing requirements of this provision shall be provided to the applicant and to
13 persons who receive notice of applications under the Codes of the City of Tallahassee or Leon
14 County, as applicable, and shall be included in any published legal notice, whenever legal notice
15 is required to be published under the Codes of the City of Tallahassee or Leon County. A copy
16 of a petition must be served on the applicant, if applicable, and on the attorney for the local
17 government. The Clerk of the Planning Commission shall provide a copy of a petition to parties
18 who are not identified as having received a copy.

19
20 **(j) Determination of Standing.** A Determination of Standing is a finding that the petitioner has
21 alleged sufficient facts to establish entitlement to quasi-judicial proceedings. Notwithstanding
22 the issuance of a Determination of Standing, a petitioner will still be required to prove standing
23 in the quasi-judicial evidentiary hearing to be conducted in the matter. The Planning
24 Commission Attorney shall, within five days of the date a petition for quasi-judicial proceedings
25 is filed, determine whether the person or entity filing the petition has alleged sufficient facts (to
26 be proved at final hearing) to establish entitlement to quasi-judicial proceedings (“Standing”). A
27 Determination of Standing will be provided to the person who filed the petition and to the
28 applicant. If a petition is deficient, it shall be rejected. For projects located in the City of
29 Tallahassee only, the person whose petition is rejected shall be given one opportunity to amend
30 the petition, which amended petition must be filed within five days of receipt of the
31 Determination of Standing. A second Determination of Standing shall be issued within five days
32 of receipt of an amended petition. A party seeking to appeal a second unfavorable Determination
33 of Standing (City only) may do so by filing a motion for reconsideration with the Planning
34 Commission within 3 days of receipt. The Planning Commission will act on the motion at its
35 next scheduled meeting following the filing of the motion for reconsideration so long as there is
36 sufficient time for the Clerk of the Planning Commission to provide notice to all parties. As used
37 herein, “sufficient time” shall mean at least three days.

38
39 **(k) Motion to Dismiss.** A motion to dismiss a petition may be filed within five days after the
40 petition is filed. Motions to dismiss will be heard by the Administrative Law Judge assigned to
41 preside over the quasi-judicial proceedings.
42

1 **(l) Dismissal by Clerk of the Planning Commission.** The Clerk of the Planning Commission
2 will dismiss any petition for quasi-judicial proceedings which is not filed within the deadlines set
3 forth in these Bylaws or is not accompanied by the appropriate filing fee.
4

5 **(m) Intervention.** Intervention is permitted prior to the evidentiary hearing by any person who
6 would qualify as a party. A party who seeks to intervene must file a petition for intervention that
7 provides the same information as a petition for quasi-judicial proceedings. The intervenor must
8 also file the filing fee required of persons filing a petition for formal proceedings. Intervention is
9 not permitted after discovery has been completed. The Administrative Law Judge shall, within
10 five days of the date a petition for intervention is filed, determine whether the person or entity
11 filing the petition has alleged sufficient facts (to be proved at final hearing) to establish
12 entitlement to intervention (“Standing”). A Determination of Standing will be issued to the
13 person who filed the petition, and a copy provided the parties. If a petition is deficient, it shall be
14 rejected. For projects located in the City of Tallahassee only, the person whose petition is
15 rejected shall be given one opportunity to amend the petition, which amended petition must be
16 filed within five days of receipt of the Determination of Standing. A second Determination of
17 Standing shall be issued within five days of receipt of an amended petition. A party seeking to
18 appeal a second unfavorable Determination of Standing (City only) may do so by filing a motion
19 for reconsideration with the Planning Commission within 3 days of receipt. The Planning
20 Commission will act on the motion at its next scheduled meeting following the filing of the
21 motion for reconsideration so long as there is sufficient time for the Clerk of the Planning
22 Commission to provide notice to all parties. As used herein, “sufficient time” shall mean at least
23 three days.
24

25 **Section 2. Certificate of Service Required; Effect of Party or Attorney’s Signature.**
26 Whenever any document is required to be filed with the Clerk of the Planning Commission as
27 part of any quasi-judicial proceeding governed by Article IX, a copy of the document must be
28 served on all parties by hand-delivery, facsimile, or U.S. Mail. The person who files the
29 document must include a certificate of service at the end of the document specifying the type of
30 service in substantially the following form:
31

32 I certify that a copy of this document has been furnished to (insert names of all parties) at (list
33 addresses) by (hand delivery) (mail) (facsimile) this ____ day of _____, 20__.

34
35
36 _____
(Name of person filing document)
37

38 The signature of an attorney or party on any document filed in these proceedings constitutes a
39 certificate that he or she has read the pleading, motion or other paper and that, to the best of his
40 or her knowledge, information, and belief formed after reasonable inquiry, it is not interposed for
41 any improper purpose, such as to harass or to cause unnecessary delay or for economic
42 advantage, competitive reasons or frivolous purposes or needless increase in the cost of
43 litigation.
44

45 **Section 3. Transmittal of Petition to the Division of Administrative Hearings;**
46 **Administrative Law Judges; Verbatim Record; Procedural Orders and Discovery; Time**

1 **for Requesting Procedural Orders; Mediation; Notice of Quasi-judicial Evidentiary**
2 **Hearing.**

3
4 **(a) Transmittal of Petition to the Division of Administrative Hearings; Administrative Law**
5 **Judges; Verbatim Record.** Within two days of receipt of a Determination of Standing
6 favorable to petitioner, the Clerk of the Planning Commission shall transmit the petition for
7 quasi-judicial proceedings to the Division of Administrative Hearings for assignment of an
8 Administrative Law Judge
9

10 The Administrative Law Judge assigned by the Division of Administrative Hearings shall be an
11 attorney who has at least five years' experience as a practicing attorney and who shall have the
12 power to swear witnesses and take their testimony under oath, to issue subpoenas and other
13 orders regarding the conduct of the proceedings and to compel entry upon land. The
14 Administrative Law Judge will conduct the quasi-judicial evidentiary hearing, rule on any
15 pending motions and render a recommended order with findings of fact, conclusions of law and a
16 recommended action.
17

18 If a person decides to appeal any decision made by the Planning Commission with respect to any
19 matter considered at a meeting or hearing, such person will need a record of the proceedings, and
20 for this purpose such person may need to ensure that a verbatim record of the proceedings is
21 made, which record indicates the testimony and evidence upon which the appeal is to be based.
22 The Planning Commission does not provide or prepare such a record (Section 286.0105, Florida
23 Statutes). The Clerk of the Planning Commission will retain all official exhibits and make copies
24 available, at the cost of reproduction, upon request.
25

26 **(b) Procedural Orders and Discovery.** At the request of any party, or upon his or her own
27 motion, the Administrative Law Judge shall consider the entry of a procedural order requiring all
28 parties to:
29

- 30 1) confer and discuss the possibility of settlement;
- 31 2) establish a discovery schedule, including the opportunity to take depositions;
- 32 3) exchange witness lists, identifying the subject area of the witnesses' expertise,
33 where applicable, and a written summary of the expert's testimony;
- 34 4) exchange lists of exhibits to be submitted into evidence and view said exhibits;
- 35 5) stipulate to as many facts as possible; and
- 36 6) file with the Administrative Law Judge, no later than ten days before the quasi-judicial
37 evidentiary hearing a signed joint prehearing statement setting forth those facts which
38 are agreed to by the parties and those facts that remain in dispute and attaching a copy
39 of the witness and exhibit list of each party.
40

41 If the parties are unable to cooperate on a joint prehearing statement, then the parties must file
42 individual statements providing the same information. A copy of the prehearing statement must
43 be provided to all other parties by the party filing the document at the time of filing. Prehearing
44 statements may be amended only with permission of the Administrative Law Judge.
45

1 Discovery is a process that allows the parties to obtain information about the other parties'
2 argument, witnesses and exhibits. Discovery is permitted in the same manner as provided in the
3 Florida Rules of Civil Procedure for matters pending in court proceedings, except that the times
4 for completing discovery under those rules may be altered by the administrative law judge as
5 required to meet the timeframes for completing the proceedings as provided in these Bylaws.
6

7 **(c) Time for Requesting Procedural Orders.** If a procedural order is desired by any party who
8 has filed a petition for quasi-judicial proceedings, the request for entry of a procedural order
9 must be included in the petition. Parties defending against the petition who desire entry of a
10 procedural order must file a request by motion for entry of same within ten days of the filing of
11 the petition. The Administrative Law Judge will rule on requests for procedural orders.
12

13 **(d) Mediation.** Upon issuance of a Determination of Standing favorable to the petitioner, in
14 addition to submitting the petition to the Division of Administrative Proceedings for assignment
15 of an Administrative Law Judge, the Clerk of the Planning Commission will submit the petition
16 to a mediator as provided in Appendix IV to these Bylaws unless the petitioner has expressly
17 indicated in the petition that mediation is not desired. If the petition does not indicate that
18 mediation is not desired, mediation shall be conducted unless declined by any other party within
19 5 days of filing of the petition. The mediator shall contact the parties to schedule mediation.
20 Mediation shall be completed within 45 days of filing of a petition. Mediation costs will be
21 borne by the parties. If mediation is successful, a mediation stipulation signed by the parties and
22 the mediator shall be submitted to the Planning Commission for review and a notice of voluntary
23 dismissal of the request for quasi-judicial proceedings shall be filed by the petitioner with the
24 Administrative Law Judge. The mediation stipulation shall include findings of fact, conclusions
25 of law and a recommendation. The Planning Commission shall treat the mediation stipulation as
26 if it were a recommended order from an Administrative Law Judge, except that no exceptions
27 may be filed by the parties.
28

29 **(e) Notice of Quasi-judicial Evidentiary Hearing.** Notice of the quasi-judicial evidentiary
30 hearing before an Administrative Law Judge shall be published by the Clerk of the Planning
31 Commission in a newspaper of general circulation at least fifteen calendar days before the quasi-
32 judicial evidentiary hearing. Notice to the parties shall be provided by the Administrative Law
33 Judge. If the hearing is continued or rescheduled, notice shall be provided to the parties of the
34 new date of hearing by the Administrative Law Judge but notice shall not again be published in
35 the newspaper. Interested persons are encouraged to contact the Planning Commission Secretary
36 for information regarding rescheduling. Unless consented to by all parties, the quasi-judicial
37 evidentiary hearing shall be held within 60 days of transmittal of the petition to the Division of
38 Administrative Hearings.
39

40 **Section 4. Public Testimony.** Members of the general public shall be permitted up to three
41 minutes per person to submit testimony at the quasi-judicial evidentiary proceeding. However,
42 the Administrative Law Judge may enlarge the time if, in his or her discretion, the circumstances
43 warrant such enlargement. Those members of the public wishing to speak must sign a speaker
44 slip and must submit testimony under oath or affirmation.
45

1 **Section 5. Evidence; Burden of Proof.** All recommended orders shall be based upon
2 competent, substantial evidence. Pursuant to F.S. Section 163.3215(4)(f), the standard of review
3 applied by the administrative law judge in determining whether a proposed development order is
4 consistent with the comprehensive plan shall be strict scrutiny in accordance with Florida law.
5

6 The Administrative Law Judge shall not be bound by strict rules of evidence, nor limited to
7 consideration of such evidence as would be admissible in a court of law, but may exclude
8 irrelevant, immaterial, incompetent, or unduly repetitious testimony or evidence. Hearsay
9 evidence will be accepted. However, the Administrative Law Judge shall not make a finding that
10 is based solely on hearsay, unless the hearsay would be admissible in a judicial proceeding under
11 the Florida Evidence Code.
12

13 The Administrative Law Judge shall rule on any objections made at the evidentiary hearing. In
14 de novo quasi-judicial proceedings, the initial burden of proof shall be on the applicant. Once the
15 applicant establishes his or her entitlement to approval by submittal of competent, substantial
16 evidence supporting the approval (referred to by the courts of this state as a "prima facie case"),
17 the burden of proof will shift to the petitioner(s) to rebut the evidence submitted by the applicant.
18 The decision under appeal will be treated as a staff report.
19

20 **Section 6. Rules Incorporated by Reference.** Where not in conflict with these Bylaws, the
21 following rules adopted pursuant to Chapter 120, Florida Statutes, for conducting hearings before
22 the Division of Administrative Hearings also apply (although Chapter 120 does not apply to
23 these proceedings): Florida Administrative Code Rules 28-106.104 (except subsections (7), (8),
24 and (9) thereof), 28-106.108, 28-106.110, 28-106.203, 28-106.211, 28-106.213, and 28-106.215.
25 A copy of these rules appears in Appendix II. The right to cross examine witnesses shall be
26 available only to parties.
27

28 **Section 7. Order for Presenting Evidence.** Unless otherwise provided by the Administrative
29 Law Judge, or by agreement of the parties, the applicant shall present its case first. Opposing
30 parties shall then present their case(s). A designated representative shall then make the
31 presentation on behalf of the government with jurisdiction. The City or County, as applicable,
32 shall be treated as a party in all quasi-judicial proceedings and will be expected to present
33 argument, just like any other party. Provisions will also be made for public comment at a time
34 convenient to the orderly presentation of evidence by the parties. The parties shall have the
35 opportunity to respond to any comments made by the public and shall also have the opportunity
36 to rebut other parties' presentations.
37

38 **Section 8. Supplementing the Record; Ex Parte Communications Prohibited.**
39 Supplementing the record after the quasi-judicial evidentiary hearing is prohibited.
40

41 No ex parte communications will be permitted during the pendency of quasi-judicial proceedings
42 before the Planning Commission or an Administrative Law Judge. An ex parte communication
43 is an oral or written communication outside of a Planning Commission meeting or administrative
44 hearing and without notice to the parties made to a member of the Planning Commission or
45 Administrative Law Judge by, or on behalf of, a party, or otherwise, about the merits of a matter
46 before the Planning Commission, or foreseeably anticipated to come before the Commission. In

1 the event of any ex parte communication to a Planning Commissioner or Administrative Law
2 Judge, the substance of the communication and the identity of the person, group, or entity with
3 whom the communication took place shall be disclosed and made a part of the record before final
4 action on the matter. Nothing herein shall preclude any member of the Planning Commission
5 from individually visiting any site that is the subject of a quasi-judicial proceeding. Disclosures
6 made pursuant to this section must be made before or during the public meeting or hearing at
7 which action is taken on such matters, so that persons who have opinions contrary to those
8 expressed in the ex parte communication are given a reasonable opportunity to refute or respond
9 to the communication.

10
11 **Section 9. Continuances; Computation of Time.**

12
13 **(a) Continuances.** A party may seek a continuance of a hearing or time for filing any document
14 except the petition for quasi-judicial proceedings by filing a request for continuance in writing
15 with the Administrative Law Judge, or Planning Commission if the continuance is sought after
16 the recommended order is issued. The request must explain the reasons for such a request.
17 Copies of such requests shall be provided by facsimile or hand-delivery to all parties, who may
18 respond within three days of the date the request is rendered.

19
20 **(b) Computation of Time.** Unless otherwise stated in these Bylaws, "days" means "working
21 days". In computing any period of working days prescribed or allowed by these Bylaws, by
22 order of the Planning Commission, or by any applicable ordinance, the day of the act, event, or
23 action from which the designated period of time begins to run and any Saturdays, Sundays and
24 legal holidays shall not be counted. In computing any period of time prescribed or allowed by
25 these Bylaws, by order of the Planning Commission, or any applicable ordinance, which is to be
26 counted by calendar days, the following shall apply: 1) The day of the act, event, or action from
27 which the designated period of time begins to run shall not be included. 2) Saturdays, Sundays
28 and legal holidays shall be included. However, the last day of the period so computed shall be
29 included unless it is a Saturday, Sunday or legal holiday. If the last day of the period so
30 computed is a Saturday, Sunday or legal holiday, the period shall run until the end of the next
31 day which is neither a Saturday, Sunday or legal holiday. 3) When the period of time prescribed
32 or allowed is less than seven calendar days, intermediate Saturdays, Sundays and legal holidays
33 shall be excluded in the computation.

34
35 **Section 10. Action on Recommended Order.** The Administrative Law Judge shall serve copies
36 of the recommended order on the parties and transmit the original together with the record to the
37 Clerk of the Planning Commission.

38
39 **(a) Exceptions.** The parties shall have ten calendar days from the date the recommended order
40 is served to file specific, written objections ("exceptions") to the recommended order with the
41 Clerk of the Planning Commission. Objections ("exceptions") shall include appropriate
42 references to the record before the Administrative Law Judge. Exceptions to findings of fact
43 must be filed together with nine copies of the entire record. Only one copy of the record need be
44 filed if there are no exceptions to findings of fact. A party may file a motion with the Planning
45 Commission seeking to reduce the number of copies that need to be filed if the circumstances of
46 the case (such as the size of the record) warrant a reduction in the number of copies filed. If

1 more than one party is filing exceptions, the parties are encouraged to coordinate the filing of the
2 copies of the record among themselves to avoid filing more than nine copies. A response to
3 exceptions may be filed within ten calendar days following the date shown on the certificate of
4 service of the exceptions. The party defending challenged findings of fact is encouraged to
5 include in the response to exceptions the record citation supporting the challenged finding. After
6 receipt of the recommended order from the Administrative Law Judge, and expiration of the time
7 for filing of exceptions (and responses to exceptions, if exceptions are filed), the Clerk of the
8 Planning Commission shall schedule the recommended order for consideration by the Planning
9 Commission.

10
11 **(b) Consideration of the Recommended Order.** During its consideration of the recommended
12 order at a duly noticed public hearing, the Planning Commission will take comment from
13 persons who desire to submit comments in favor or in opposition to the recommended order.
14 The general public will be afforded three minutes per person. The parties will be afforded fifteen
15 minutes each to present oral argument on the exceptions. The Planning Commission Chair may
16 enlarge the time afforded under this provision if, in his or her judgment, the circumstances
17 warrant such enlargement. The Planning Commission may address questions to the parties,
18 members of the public, or staff, or to anyone else related to the recommended order at its
19 discretion. No party, including staff, may submit new evidence to the Planning Commission;
20 presentations must be confined to evidence made part of the record before the Administrative
21 Law Judge.

22
23 **(c) Action on the Recommended Order.** The Planning Commission shall adopt the
24 recommended order, adopt the recommended order with changes, or direct staff to prepare a
25 revised order. The Planning Commission may also remand the recommended order to the
26 Administrative Law Judge if additional findings are necessary. The Planning Commission shall
27 not change any findings of fact reached by the Administrative Law Judge unless after review of
28 the entire record, the Planning Commission finds there is no competent substantial evidence to
29 support the Administrative Law Judge's findings.

30
31 The Planning Commission may change conclusions of law if it is found that the Administrative
32 Law Judge did not apply the correct law. If the Planning Commission directs staff to prepare a
33 revised order, the revised order shall be submitted to the Planning Commissioners. The order
34 shall be signed by the Chair unless one or more Commissioners indicates to the Clerk of the
35 Planning Commission that the order does not reflect the vote. In such case, the draft shall be
36 presented to the Planning Commission at its next regularly scheduled meeting for final action.
37 Commissioner(s)' objections to a draft order must be submitted to the Clerk of the Planning
38 Commission within five days of transmittal of the draft to the Commissioners.

39
40 **Section 11. Decisions of the Planning Commission.** Every decision of the Planning
41 Commission shall be promptly filed in the office of the Clerk of the Planning Commission, and
42 shall be open to public inspection. A copy shall be sent by U.S. Mail, facsimile, or hand-delivery
43 to the parties. The Planning Commission decision shall not be deemed to be rendered until date
44 stamped by the Clerk of the Planning Commission.

1 **Section 12. Order Closing File; Settlement Agreements.** An applicant may withdraw its
2 application, a petitioner may withdraw its petition for quasi-judicial proceedings or notice of
3 intent to file same, or the parties may settle their dispute any time before the Planning
4 Commission takes final action. Upon filing of a notice of withdrawal of the application (by the
5 applicant) or the filing of the withdrawal of the petition for quasi-judicial proceedings (by the
6 petitioner), or filing of a settlement agreement (by the parties) or a notice of a settlement
7 agreement, the Clerk of the Planning Commission will enter an Order Closing File, unless the
8 Planning Commission is required to take further action on a matter. The entry of this order will
9 terminate the quasi-judicial proceedings. A notice of voluntary dismissal must be forwarded to
10 the Administrative Law Judge if the matter is pending before the Administrative Law Judge.
11 The Planning Commission will not take further action on the matter, except in those cases where
12 the application has not been withdrawn and the Planning Commission is required by Code to
13 hold a public hearing in order to render a decision or make a recommendation to the City or
14 County Commission.

15
16 **ARTICLE X - AGENDAS**

17
18 The Planning Commission will normally follow its printed or typed agenda for the order of
19 business at each meeting. The Chair, without objection from the members, may alter, including
20 temporarily passing, the order of business on the agenda. If an objection is noted by a member, a
21 motion duly made and passed is required to rearrange the order of business noted on the agenda.

22
23 **ARTICLE XI - CONFLICT OF INTEREST**

24
25 The Commission will be governed by the applicable requirements of Section 112.3143, Florida
26 Statutes, as may be amended from time to time. A copy of Section 112.3143 is attached hereto
27 as Appendix III.

28
29 **ARTICLE XII - OTHER RULES OF PROCEDURE**

30
31 Except where in conflict with these Bylaws or pertinent ordinances, the Planning Commission
32 shall adhere to "Robert's Rules of Order, Revised" in conducting its business and meetings.

33
34 **ARTICLE XIII - CLERK OF THE PLANNING COMMISSION;
35 PRESERVATION OF RECORD**

36
37 The Clerk of the Planning Commission shall be appointed by the Director of the Tallahassee-
38 Leon County Planning Department and shall have the responsibility for preserving recorded
39 tapes and keeping minutes of each regular and special meeting of the Planning Commission as
40 required by Section 286.011, Florida Statutes. The minutes thus prepared become the official
41 minutes of the Planning Commission once they have been presented to and approved by motion
42 of the Planning Commission. The Clerk of the Planning Commission shall also be responsible
43 for providing notices of all meetings, arranging meeting location, and preparing and distributing
44 appropriate information relating to the agenda and performing other duties as set forth elsewhere
45 in these Bylaws. Issuance of notices, preservation of recorded tapes and keeping of minutes for

1 the Local Planning Agency shall be undertaken by staff of the Planning Department as
2 designated by the Director.

3
4 **ARTICLE XIV - INFORMAL PROCEDURES FOR**
5 **QUASI-JUDICIAL PROCEEDINGS;**
6 **WAIVER OF QUASI-JUDICIAL PROCEEDINGS**
7

8 In the event that the provisions for quasi-judicial proceedings of Article IX are waived by the
9 parties to the proceedings, the Planning Commission will proceed under informal procedures.
10 Under its informal procedures, the Planning Commission will hear a report from staff followed
11 by a presentation from the applicant. Public comment will be allowed thereafter. Each speaker
12 shall be limited to three minutes unless additional time is permitted upon majority vote of the
13 Planning Commission. The Planning Commission's record will consist of the staff report and
14 attachments, the testimony received and any additional exhibits submitted at the public hearing.
15 The record may not be supplemented without the express approval of the Planning Commission
16 upon a majority vote. Ex parte communications shall be prohibited. Planning Commissioners
17 who receive ex parte communications shall report them on the record and the Commission shall
18 afford affected parties the right to respond. Findings of the Commission will be reduced to
19 writing by staff after the vote.

20
21 **ARTICLE XV – PROCEDURES FOR EXPEDITED**
22 **REVIEW OF ADVANCED TECHNOLOGY PROJECTS**
23 **(CITY OF TALLAHASSEE ONLY)**
24

25 **Section 1. Applicability of Article XV.** This Article sets out expedited review procedures for
26 Advanced Technology Projects that qualify pursuant to Section 403.973, Florida Statutes, and
27 the ordinances of the City of Tallahassee. The provisions of this Article for review of Advanced
28 Technology Projects supercede all other provisions of these Bylaws that are in conflict with this
29 Article. An Advanced Technology Project is a development or redevelopment on a parcel at
30 least 25 acres in size that will create at least 250 new full time jobs within the City in certain
31 manufacturing, assembly, processing, distribution or industrial uses, including semiconductors,
32 computers, computer peripherals, software, telecommunications, biosciences, logistics and
33 distribution, aviation/aerospace instruments, research, and development, data centers, automotive
34 systems and parts and other similar uses. The determination of whether a project qualifies for
35 treatment under this Article will not be made by the Planning Commission.

36
37 **Section 2. Planning Commission Procedures for Advanced Technology Projects.**
38

39 **(a) Rezonings.** Notice of the Planning Commission public hearing on a request for an
40 amendment to the Official Zoning Map shall be published at least seven calendar days in
41 advance of the hearing by one publication in a newspaper of general circulation in the City or
42 County. No other notice of Planning Commission Public Hearing shall be required. Within
43 seven days after the close of the public hearing, the Planning Commission shall transmit a
44 written report of its findings and recommendations to the City Commission.
45

1 (b) **Site Plan Reviews.** The provisions for review by a quasi-judicial proceeding of decisions of
2 the City of Tallahassee on Type A and Type B site plan reviews shall not apply to Advanced
3 Technology Projects. Instead, a party with standing shall have the right to seek review in circuit
4 court by petition for writ of certiorari within 30 days from final action on the application.

5 **ARTICLE XVI. FLORIDA LAWS AND COUNTY COMMISSION POLICIES**

6 **Section 1. Public Records Law and E-Mails.** Each member of the Planning Commission shall
7 comply with the Florida’s Public Records Law, Chapter 119, Florida Statutes, and Board of
8 County Commissioners Policy 96-4, “Policy on Public Records Law and E-Mail,” as may be
9 amended from time to time, and each member of the Planning Commission shall be provided a
10 copy of BCC Policy 96-4.

11 **Section 2. Government In the Sunshine Law.** Each member of the Planning Commission shall
12 comply with the Florida Government in the Sunshine Law, Chapter 286, Florida Statutes, as may
13 be amended from time to time.

14 **Section 3. Code of Ethics.** The Planning Commission shall comply with the following state
15 laws and Board of County Commission Policies with regard to the Florida Code of Ethics for
16 Public Officers and Employees:

- 17 (a) Each member of the Planning Commission shall comply with Section 112.3143, Florida
18 Statutes, “Voting Conflicts,” as may be amended from time to time, and shall be provided
19 a copy of Section 112.3143. A copy appears in Appendix III to these Bylaws.
- 20 (b) Each member of the Planning Commission shall abide by the Standards of Conduct set
21 forth in Section 112.313, Florida Statutes, as may be amended from time to time, and
22 shall be provided a copy of Section 112.313, Florida Statutes.

23
24 **PART II**
25 **TALLAHASSEE-LEON COUNTY**
26 **LOCAL PLANNING AGENCY**

27
28 **ARTICLE I NAME AND AUTHORIZATION**
29

30 **Section 1. Name.** Pursuant to Objective 1.1 of the Intergovernmental Coordination Element of
31 the Comprehensive Plan, the Tallahassee-Leon County Planning Commission shall act as the
32 "Tallahassee-Leon County Local Planning Agency" herein referred to as the "Local Planning
33 Agency" when performing those duties of the Local Planning Agency required by Florida
34 Statutes and local law.

35
36 **Section 2. Authorization.** The Local Planning Agency exists by authority of the "Tallahassee-
37 Leon 2010 Comprehensive Plan as amended," adopted on July16, 1990, by City of Tallahassee
38 Ordinance 90-0-0076, and by Leon County Ordinance 90-30; by City of Tallahassee Ordinance
39 92-0-0029, and by Leon County Ordinance 92-15. Termination or restructuring of the Local

1 Planning Agency shall be through the comprehensive plan amendment process and through the
2 statutory requirements for local planning agencies, consistent with Chapter 163, Florida Statutes.
3

4 **ARTICLE II - DUTIES AND RESPONSIBILITIES**

5
6 **Section 1. Monitor and Recommend.** The Local Planning Agency shall monitor and oversee
7 the effectiveness and status of the comprehensive plan and recommend to the City and County
8 commissions such changes in the comprehensive plan as may be required from time to time,
9 including preparation of the periodic reports required by Section 163.3191, Florida Statutes.
10

11 **Section 2. Coordination with Governmental Entities.** The Local Planning Agency shall
12 coordinate the comprehensive plan of the City of Tallahassee and Leon County with the plans of
13 other governmental entities, to include the School Board, other units of government providing
14 service but not having regulatory authority over the use of land, and adjacent counties.
15

16 **Section 3. Level of Service Standards.** The Local Planning Agency shall ensure coordination
17 in establishing level of service standards for public facilities with any other entities having
18 operational and maintenance responsibilities for such facilities.
19

20 **Section 4. Planning Coordination.** The Local Planning Agency shall provide regular
21 opportunities for other entities to present their plans to the agency, and for the agency to
22 communicate its plans to the other entities for the purpose of planning coordination.
23

24 **Section 5. Resolving Conflict.** The Local Planning Agency shall serve as a recommending body
25 to the City and County commissions in resolving conflicts between the plans of the other entities
26 with those of the City and the County.
27

28 **Section 6. Mediation.** The Local Planning Agency shall periodically coordinate with adjacent
29 Local Planning Agencies on issues of mutual interest, and serve as a mediating body where
30 conflicts exist.
31

32 **Section 7. Target Issues.** The Local Planning Agency shall serve as a means to monitor and
33 evaluate plan implementation, utilize a target issues process to track dates and actions as shown
34 in the plan.
35

36
37 **Section 8. Permitting Process.** The Local Planning Agency shall serve as the coordination and
38 monitoring mechanism to ensure the coordination of the permitting process in order to protect
39 natural resource features through the appropriate location and intensity of development.
40

41 **Section 9. General Duties.** The Local Planning Agency shall perform any other function,
42 duties, and responsibilities assigned to it by the City Commission, County Commission, or
43 general or special law.
44

45 **ARTICLE III - OFFICERS**

1 **Section 1. Designation.** The Chair of the Local Planning Agency shall be the Chair of the
2 Tallahassee-Leon County Planning Commission. The Vice-Chair of the Local Planning Agency
3 shall be the Vice-Chair of the Tallahassee-Leon County Planning Commission.
4

5 **Section 2. Duties.** The Chair shall preside at all meetings of the Local Planning Agency; shall
6 sign all official correspondence for the Local Planning Agency; and shall serve as the official
7 representative of the Local Planning Agency. In the absence of the Chair, the Vice-Chair shall
8 perform these functions. The most senior member present will serve as Chair in the absence of
9 the elected Chair and Vice-Chair.
10

11 **ARTICLE IV - MEETINGS**

12

13 **Section 1. Meetings.** The Local Planning Agency shall meet at least quarterly, but it may
14 conduct whatever additional meetings are necessary in order to accomplish the purposes assigned
15 to it by the City of Tallahassee and Leon County. All meetings shall be public meetings, and all
16 records shall be public records. The Local Planning Agency shall encourage diversified public
17 participation. Citizens shall be afforded the opportunity to comment at all meetings, within the
18 constraints of time and relevancy as determined by the Chairman.
19

20 **Section 2. Meeting Locations.** Meetings shall be held in facilities that are readily accessible to
21 all citizens.
22

23 **ARTICLE V - GENERAL PROVISIONS**

24

25 **Section 1. Voting Rights.** Each member shall be entitled to one vote. Proxy votes and absentee
26 ballots shall not be allowed.
27

28 **Section 2. Parliamentary Procedure.** Robert's Rules of Order, Revised, shall be the authority
29 on parliamentary procedure at all meetings, unless in conflict with these Bylaws, in which case
30 these Bylaws shall govern.
31

32 **ARTICLE VI - THE GOAL OF CITIZEN 33 PARTICIPATION PROCEDURES**

34 By definition, a goal is a statement of purpose intended to define an ultimate or end state. In the
35 local context, a goal should reflect the direction of efforts of the local government and its
36 citizens.
37

38 The goal for the citizen participation process in planning for Tallahassee-Leon County is as
39 follows:
40

41 To provide timely two-way communications between the citizens of
42 Tallahassee-Leon County and those responsible for preparation of
43 amendments to and evaluation of the Comprehensive Plan. These plan
44 processes should be accomplished in such a way so as to foster a sense of
45 partnership between the government and the public; to create a sense of
46 ownership and informed consent on the part of the public regarding the

1 plan and the planning process; and to create a sense of trust between
2 government and the public.

3
4 **ARTICLE VII - OBJECTIVES OF CITIZEN**
5 **PARTICIPATION PROCEDURES**
6

7 Objectives are specific accomplishments, or series of accomplishments, necessary to the
8 satisfactory pursuit of a goal. Objectives measure the success being realized in reaching a
9 desired goal.

10
11 Objectives for citizen participation in Tallahassee-Leon County planning efforts are:

- 12
13 A. The community understands the needs and the associated costs related to the
14 comprehensive plan.
15 B. Opportunities are provided for citizens to be involved in the planning process and
16 to be informed of planning actions.
17 C. Procedures assure that property owners are notified of official actions that will
18 affect the use of their property.
19 D. The public has opportunities to provide written comments.
20 E. Procedures require consideration and response to public comments.
21 F. All state and local legal requirements for public notice and conduct of public
22 meetings are met.
23

24 **ARTICLE VIII - CITIZEN PARTICIPATION PROCEDURES**
25

26 In order to meet the citizen participation goal and objectives as outlined above for Tallahassee-
27 Leon County, the procedures set forth below will be utilized by the Local Planning Agency in
28 fulfilling its planning responsibilities:
29

30 **Section 1. Newspaper Advertising.** For all regular meetings and workshops of the Local
31 Planning Agency, a display advertisement will be published in a newspaper of general
32 circulation. The display ad will be of sufficient size and design (within reasonable budgetary
33 limitations) so as to be readily noticeable by interested citizens. The ad shall include the
34 purpose, date, time, and location of the meetings, and it shall offer citizens the opportunity to
35 obtain additional information and to be placed on a mailing list for future meeting notices if they
36 so choose.
37

38 The public hearing required by Section 163.3174(4)(a), Florida Statutes, held to receive public
39 comments on plan amendments, shall be advertised in a newspaper of general circulation in a
40 display ad of at least 3" x 3" and shall include the above listed information. Notice of this public
41 hearing shall be published twice as provided in Section 163.3164(17), Florida Statutes.
42

43 **Section 2. Mailing List.** All interested individuals will be afforded the opportunity (through
44 advertising and other techniques) to have their name placed on a mailing list to receive written
45 notice of meetings, workshops, seminars, and public hearings related to development of the

1 comprehensive plan. Upon request, groups and individuals will be afforded the opportunity to
2 receive the complete Local Planning Agency agenda package on a regular basis.

3
4 **Section 3. Free Publicity.** Advantage will be taken of any free publicity opportunities that may
5 be available. Notices of meetings will be submitted to the respective City and County
6 community liaison offices for inclusion in periodic community service listings or announcements
7 of meetings. Other low cost techniques such as media releases, public service announcements,
8 and presentations to community groups will also be utilized when appropriate in order to provide
9 information to the public and to receive their comments.

10
11 **Section 4. Meetings.** All Local Planning Agency meetings will be public meetings, and shall be
12 held at least on a quarterly basis, with more frequent meetings as needed. Citizens will be
13 afforded the opportunity to comment at all meetings, within the constraints of time and relevancy
14 as determined by the Chair.

15
16 **Section 5. Information Depositories.** Relevant planning information, reports, and documents
17 will be provided to public libraries and other suitable information depositories in the community
18 in order to make the information readily available to interested citizens. Groups that request
19 complete Local Planning Agency agenda packages will be encouraged to serve as information
20 depositories.

21
22 **Section 6. Written Comments.** Written comments can be addressed to the Local Planning
23 Agency through the Planning Department. Depending upon the nature or extent of written
24 comments received, such comments will be summarized, or provided in their entirety to the
25 Local Planning Agency members for consideration.

26
27 **Section 7. Public Hearings.** Public hearings will be conducted in accordance with the
28 requirements of Chapter 163, Florida Statutes. Additional hearings can be held at local option.
29 All hearings will meet legal requirements relating to advertising, and will be held at a time and
30 location convenient to the general public. Beyond the legal requirements, other citizen
31 notification techniques as outlined, and as appropriate, will be utilized.

32
33 **Section 8. Workshop Sessions.** Workshop sessions constitute public meetings and will be
34 appropriately advertised, and other techniques will be utilized, as appropriate, to notify the public
35 of the workshops. Workshops shall be held at a time and location that is accessible to the public.
36 Workshop sessions will be generally less formal than regularly scheduled meetings and public
37 hearings in order to encourage a more spontaneous flow of discussion among the participants.
38 Such workshops can be geographically based or issue based, depending on the need.

39
40 **Section 9. Amendments after Public Hearing.** The Local Planning Agency may recommend
41 modifications to amendments after hearing public comment. These modifications may include
42 changes to text or changes increasing or reducing the area of coverage of a map amendment.

APPENDIX I
PETITION FOR QUASI-JUDICIAL PROCEEDINGS

**Before the Tallahassee-Leon County
Planning Commission**

NOTICE: TO BE ENTITLED TO QUASI-JUDICIAL PROCEEDINGS, THE PETITIONER MUST BE A PERSON WHO WILL SUFFER AN ADVERSE EFFECT TO AN INTEREST PROTECTED OR FURTHERED BY THE COMPREHENSIVE PLAN, INCLUDING INTERESTS RELEATED TO HEALTH AND SAFETY, POLICE AND FIRE PROTECTION SERVICE SYSTEMS, DENSITIES OR INTENSITIES OF DEVELOPMENT, TRANSPORTATION FACILITIES, HEALTH CARE FACILITIES, EQUIPMENT OR SERVICES OR ENVIRONMENTAL OR NATURAL RESOURCES. THE ALLEGED ADVERSE EFFECT MAY BE SHARED IN COMMON WITH OTHER MEMBERS OF THE COMMUNITY AT LARGE, BUT MUST EXCEED IN DEGREE THE GENERAL INTEREST IN COMMUNITY GOOD SHARED BY ALL PERSONS.

FILING FEE MUST BE PAID WHEN THE PETITION IS FILED.

1. This is a petition to initiate quasi-judicial proceedings to review a:
_____ decision
_____ recommendation
of _____ to
_____ approve
_____ deny
the following _____ (action/project)

Project Identification Number: _____

Date decision rendered (if applicable): _____

Project Location:

_____ City of Tallahassee

_____ Leon County

The petition will be forwarded to a mediator unless mediation is not requested. Costs of mediation shall be borne by the parties.

Check here if _____ mediation is not requested.

2. Name of Petitioner: _____

Address of Petitioner: _____

Telephone Number of Petitioner: _____ Facsimile: _____

Name of Petitioner's Representative (where applicable): _____

1 Address of Petitioner's Representative: _____
2 _____

3
4 Telephone Number of Petitioner's Representative: _____ Facsimile: _____
5 Name of Project Applicant (if different from Petitioner): _____

6 _____
7
8 Address of Project Applicant: _____
9 _____

10
11 Telephone Number of Project Applicant: _____ Facsimile: _____

12
13 3. Right to quasi-judicial proceedings [See notice above. Failure to list sufficient facts to
14 show entitlement to quasi-judicial proceeding will result in denial of petition]: Provide
15 an explanation of how Petitioner's substantial interests will be adversely affected by the
16 determination or recommendation being challenged by Petitioner: _____
17 _____
18 _____
19 _____
20 _____
21 _____
22 _____

23 4. Petitioner received notice of the determination/proposed action dated _____ on _
24 _____, 200 by:
25 _____
26 _____ U.S. Mail
27 _____ Publication in the newspaper.

28
29 Note: A copy of the determination/proposed action must be attached to this petition.

30
31 5. A statement of all facts that are disputed by Petitioner: _____
32 _____
33 _____
34 _____
35 _____

36 6. A statement of the specific facts the Petitioner contends warrant reversal or modification
37 of the determination or proposed recommendation: _____
38 _____
39 _____
40 _____

41
42 7. A statement of the specific ordinance provisions the Petitioner contends require reversal
43 or modification of the determination or proposed recommendation. [Note: Failure to list
44 specific provisions will result in denial of petition.] _____
45 _____

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8. A statement of the relief sought by Petitioner, stating precisely the action Petitioner wishes the Commission to take with respect to the determination or proposed recommendation. _____

9. _____ I hereby request entry of a procedural order.

SIGNATURE

DATE

Check one:
_____ Petitioner
_____ Petitioner's Representative

CERTIFICATE OF SERVICE

I certify that a copy of this document has been furnished to:
The project applicant: _____
at the following address: _____ to
legal counsel for the local government: _____
at the following address _____
by: _____ U.S. Mail _____ Facsimile _____ Hand Delivery, this _____ day of _____
_____, 200 .

Signature

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APPENDIX II

Adopted Division of Administrative Hearings Rules

28-106.104 Filing.

- (1) In construing these rules or any order of a presiding officer, filing shall mean received by the office of the agency clerk during normal business hours or by the presiding officer during the course of a hearing.
- (2) All pleadings filed with the agency shall contain the following:
 - (a) The style of the proceeding involved;
 - (b) The docket, case or file number, if any;
 - (c) The name of the party on whose behalf the pleading is filed;
 - (d) The name, address, and telephone number of the person filing the pleading;
 - (e) The signature of the person filing the pleading; and
 - (f) A certificate of service that copies have been furnished to all other parties as required by subsection (4) of this rule.
- (3) Any document received by the office of the agency clerk after 5:00 p.m. shall be filed as of 8:00 a.m. on the next regular business day.
- (4) Whenever a party files a pleading or other document with the agency, that party shall serve copies of the pleading or other document upon all other parties to the proceeding. A certificate of service shall accompany each pleading or other document filed with the agency.
- (5) All papers filed shall be styled to indicate clearly the subject matter of the paper and the party requesting relief.
- (6) All original pleadings shall be on white paper measuring 8½ by 11 inches, with margins of no less than one inch. Originals shall be printed or typewritten.

28-106.108 Consolidation.

If there are separate matters which involve similar issues of law or fact, or identical parties, the matters may be consolidated if it appears that consolidation would promote the just, speedy, and inexpensive resolution of the proceedings, and would not unduly prejudice the rights of a party.

1 **28-106.110 Service of Papers.**

2
3 Unless the presiding officer otherwise orders, every pleading and every other paper filed in a
4 proceeding, except applications for witness subpoenas, shall be served on each party or the
5 party's representative at the last address of record.
6

7 **28-106.203 Answer.**

8
9 A respondent may file an answer to the petition.
10

11 **28-106.211 Conduct of Proceedings.**

12
13 The presiding officer before whom a case is pending may issue any orders necessary to
14 effectuate discovery, to prevent delay, and to promote the just, speedy, and inexpensive
15 determination of all aspects of the case, including bifurcating the proceeding.
16

17 **28-106.213 Evidence.**

- 18
19 (1) Oral evidence shall be taken only on oath or affirmation.
20
21 (2) Each party shall have the right to impeach any witness regardless of which party called
22 the witness to testify.
23
24 (3) Hearsay evidence, whether received in evidence over objection or not, may be used to
25 supplement or explain other evidence, but shall not be sufficient in itself to support a
26 finding unless the evidence falls within an exception to the hearsay rule as found in
27 Chapter 90, Florida Statutes.
28
29 (4) The rules of privilege apply to the same extent as in civil actions under Florida law.
30
31 (5) If requested and if the necessary equipment is reasonably available, testimony may be
32 taken by means of video teleconference or by telephone.
33
34 (a) If a party cross-examining the witness desires to have the witness review
35 documents or other items not reasonably available for the witness to review at that
36 time, then the party shall be given a reasonable opportunity to complete the cross-
37 examination at a later time or date for the purpose of making those documents or
38 other items available to the witness.
39
40 (b) For any testimony taken by means of video teleconference or telephone, a notary
41 public must be physically present with the witness to administer the oath. The
42 notary public shall provide a written certification to be filed with the presiding
43 officer confirming the identity of the witness, and confirming the affirmation or
44 oath by the witness. It shall be the responsibility of the party calling the witness to
45 secure the services of a notary public.
46

1 **28-106.215 Post-Hearing Submittals.**

2

3 All parties may submit proposed findings of fact, conclusions of law, orders, and memoranda on
4 the issues within a time designated by the presiding officer. Unless authorized by the presiding
5 officer, proposed orders shall be limited to 40 pages.

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APPENDIX III

Section 112.3143, Florida Statutes - Voting conflicts

(1) As used in this section:

(a) "Public officer" includes any person elected or appointed to hold office in any agency, including any person serving on an advisory body.

(b) "Relative" means any father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law.

(2) No state public officer is prohibited from voting in an official capacity on any matter. However, any state public officer voting in an official capacity upon any measure which would inure to the officer's special private gain or loss; which he or she knows would inure to the special private gain or loss of any principal by whom the officer is retained or to the parent organization or subsidiary of a corporate principal by which the officer is retained; or which the officer knows would inure to the special private gain or loss of a relative or business associate of the public officer shall, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

(3)

(a) No county, municipal, or other local public officer shall vote in an official capacity upon any measure 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, other than an agency as defined in s. 112.312(2); or which he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer. Such public officer shall, prior to the vote being taken, publicly state to the assembly the nature of the officer's interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

(b) However, a commissioner of a community redevelopment agency created or designated pursuant to s. 163.356 or s. 163.357, or an officer of an independent special tax district elected on a one-acre, one-vote basis, is not prohibited from voting, when voting in said capacity.

(4) No appointed public officer shall participate in any matter which would inure to the officer's special private gain or loss; which the officer knows would inure to the special private gain

1 or loss of any principal by whom he or she is retained or to the parent organization or
2 subsidiary of a corporate principal by which he or she is retained; or which he or she knows
3 would inure to the special private gain or loss of a relative or business associate of the
4 public officer, without first disclosing the nature of his or her interest in the matter.
5

6 (a) Such disclosure, indicating the nature of the conflict, shall be made in a written
7 memorandum filed with the person responsible for recording the minutes of the
8 meeting, prior to the meeting in which consideration of the matter will take place,
9 and shall be incorporated into the minutes. Any such memorandum shall become
10 a public record upon filing, shall immediately be provided to the other members
11 of the agency, and shall be read publicly at the next meeting held subsequent to
12 the filing of this written memorandum.
13

14 (b) In the event that disclosure has not been made prior to the meeting or that any
15 conflict is unknown prior to the meeting, the disclosure shall be made orally at the
16 meeting when it becomes known that a conflict exists. A written memorandum
17 disclosing the nature of the conflict shall then be filed within 15 days after the
18 oral disclosure with the person responsible for recording the minutes of the
19 meeting and shall be incorporated into the minutes of the meeting at which the
20 oral disclosure was made. Any such memorandum shall become a public record
21 upon filing, shall immediately be provided to the other members of the agency,
22 and shall be read publicly at the next meeting held subsequent to the filing of this
23 written memorandum.
24

25 (c) For purposes of this subsection, the term "participate" means any attempt to
26 influence the decision by oral or written communication, whether made by the
27 officer or at the officer's direction.
28

29 (5) Whenever a public officer or former public officer is being considered for appointment or
30 reappointment to public office, the appointing body shall consider the number and nature of
31 the memoranda of conflict previously filed under this section by said officer.
32

1
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3 **APPENDIX IV**

4 **TALLAHASSEE-LEON COUNTY PLANNING COMMISSION**

5 Procedure for Selection of Planning Commission Mediator

6 The Planning Department, on behalf of the City of Tallahassee and Leon County, will
7 publish an advertisement at least once every 3 years in the Florida Bar News or other appropriate
8 publications, requesting applications to serve as Planning Commission mediators. To qualify as
9 a Planning Commission mediator, an applicant must:

- 10
11 a) Be certified by the Florida Supreme Court as a circuit court mediator;
12 b) Have served as a certified mediator for at least 3 years; and
13 c) Have been a member of the Florida Bar at least 5 years
14

15 No mediator shall qualify to serve if he or she is an employee of the same law firm that employs
16 a Planning Commissioner or Planning Commission counsel, nor shall such mediator's firm
17 represent any party in the proceedings in question.
18

19 Applications may be obtained from the Planning Commission Clerk, and must be submitted to
20 the Planning Commission Clerk. Mediators meeting the criteria (as determined by the Planning
21 Commission Clerk upon consultation with the Planning Commission Attorney) will be placed on
22 a list in the order in which the Planning Commission Clerk receives the applications. The total
23 cost of mediation will be shared by the parties, who shall be the applicant, the local government
24 and the petitioner, if different from the applicant. The mediator is responsible for billing and
25 collecting his/her fee.
26

27 To satisfy the requirements listed above, the applicants must submit:

- 28
29 a) Evidence of certification by the Florida Supreme Court as a mediator at the circuit
30 court level;
31 b) A list of mediations conducted over the past 3 years (minimum of 3); and
32 c) Evidence of Florida Bar membership.
33

34 Once it is determined that the parties will select mediation under the Planning Commission
35 Bylaws, the Planning Commission Clerk will ask the parties to select a mediator within a
36 specified time from the list of approved mediators. If the parties fail to select a mediator within
37 the time set by the Planning Commission Clerk, the Clerk will select a mediator from the list.
38 The mediator selected by the Planning Commission Clerk shall be the next one on the list that
39 has not yet been called to serve as mediator and does not have a conflict.
40

41 The Planning Commission Clerk shall send a copy of the petition for hearing to the selected
42 mediator together with contact information about the parties. A copy of the transmittal letter
43 shall be forwarded to the parties. The mediator will contact the parties with respect to mediation.