

1 **RULE XXI**

2 **QUASI-JUDICIAL ACTIONS**

3 **Part I. Request for Hearing**

4 **(A) Quasi-Judicial Hearings before the Commission**

5 The quasi-judicial hearings before the City Commission shall be either formal or  
6 informal hearings. A formal quasi-judicial hearing is a hearing where applicants and  
7 affected parties have the rights and responsibilities of a party as set forth in Sections  
8 (B) - (D) of the rules of formal quasi-judicial procedure. An informal hearing is a  
9 hearing where the applicant and public may present testimony for or against a proposal  
10 before the Board without the procedures of a formal hearing.

11 **(B) Scope of Quasi-Judicial Proceedings**

12 A quasi-judicial proceeding, either formal or informal, shall occur as provided by law.

13 **(C) Selection of Hearing**

14 All persons entitled to actual written notice of a matter before the City Commission,  
15 that is quasi-judicial may request a formal hearing before the City Commission by  
16 filing with the Clerk of the Commission the written request before the close of  
17 business at least seven (7) days prior to the City Commission meeting when the matter  
18 is scheduled to be heard. Persons who are not entitled to actual written notice but  
19 believe they are an "affected party", as defined in this rule, may request a formal  
20 hearing and determination of affected party status by filing with the Clerk of the  
21 Commission the written request for a formal hearing and an application for affected  
22 party status as provided in Part II of this rule, before the close of business at least  
23 seven (7) days prior to the City Commission meeting when the matter is scheduled to

1 be heard. Failure to timely file such requests for a formal hearing shall set the matter  
2 for an informal quasi-judicial hearing.

3 **Part II. Formal Quasi-Judicial Hearings**

4 **(A) Order of Presentation; Time Limits**

5 (1) The order of presentation, with corresponding time limits for each presentation,  
6 are as follows:

Order	Maximum Time Limit (minutes)
1) Introduction of the matter by staff	3
*2) Petitioner	20
*3) Staff presentation	10
*4) Affected Party (if any) for (per person)	10
*5) Affected Party against (if any) against (per person)	10
*6) Rebuttal (Petitioner/Staff)	5
7) Close of presentation by Petitioner, Staff and Affected Parties	
8) Public hearing (per person)	5
9) Deliberation and vote of the Commission	

19  
20 (2) Cross examination is limited to ten (10) minutes per witness.

21 (3) The time limits set forth in Section (1) may be modified by the City Commission  
22 on its own motion or upon request of a party to the proceedings. Said request  
23 shall detail the modified time desired and the subjects to be discussed during the  
24 additional time. A request for a modification of time should be considered by the  
25 City Commission to assure all parties have an opportunity to participate without  
26 undue repetition and delay.

27 \* Witnesses may be presented during parts 2-6 of the presentation with cross-  
28 examination.

29  
30 **(B) Affected Party Defined; Determination**

31 (1) An affected party is any person who is entitled to actual written notice of a matter

1 before the Commission.

2 (2) An affected party who is not entitled to actual written notice but who believes that  
3 they have a special interest or would suffer an injury distinct in kind and degree  
4 from that shared by the public at large may request affected party status by filing  
5 an application, as provided in Part I of this rule. The Commission will consider  
6 an application for affected party status prior to the commencement of the hearing.  
7 The decision of the Commission shall be final.

8 **(C) Registration of Affected Parties**

9 In order to participate in the formal quasi-judicial hearing, all affected parties shall  
10 complete the form prescribed by the Clerk of the Commission, stating their name and  
11 address and other pertinent information, and whether they support or oppose the matter or  
12 matter before the City Commission. The form shall be delivered to the City  
13 Commission's secretary at the commencement of the hearing.

14 **(D) Representation of Parties**

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

20 **(E) The Hearing**

21 1) The introduction of the case shall be presented by the Clerk of the Commission  
22 and include a brief description of the matter. This introduction shall not be  
23 considered evidence in the proceeding, and the Clerk of the Commission

1 presenting the introduction shall not be subject to cross-examination by any party  
2 to the proceeding.

3 2) The City Commissioners shall disclose any ex parte communications that  
4 may have occurred.

5 3) All parties may be collectively sworn by the Clerk of the Commission in  
6 the interest of time.

7 4) The City Manager or designee shall present any staff, board or other  
8 report on the matter. Evidence before the Commission shall include, but not be  
9 limited to, an analysis which includes the consistency with the City's adopted  
10 codes, rules, policies or plans, as applicable, and how the matter does or does not  
11 meet the requirements of such codes, rules, policies and plans and other  
12 applicable laws. Written reports and any other documentary evidence shall  
13 become a part of the record. Evidence may be presented through oral testimony  
14 of witnesses or documentary evidence or both.

15 5) The City Commission may call any witness it deems necessary to reach a  
16 complete and informed decision.

17 6) The examination of witnesses shall be conducted under oath by direct  
18 examination on matters which are relevant and material to the issue or issues  
19 before the City Commission. After the conclusion of direct examination, the  
20 witness may be cross-examined by another party, or a City Commissioner. All  
21 questions shall be directed through the Mayor and the witness shall answer the  
22 question unless the Mayor deems the question to be irrelevant or immaterial. Any  
23 commissioner or party may raise evidentiary objections. The inquiry under cross-

1 examination shall be limited to matters raised in the direct examination of the  
2 witness. No re-direct shall be allowed unless requested by a party stating the  
3 desired area of inquiry and that request is approved by the Mayor. If re-direct is  
4 allowed, it shall be limited to questions of the witness on issues raised in the  
5 cross-examination. This provision shall not limit a City Commissioner from  
6 questioning any person on matters relevant to the matter or petition. The Mayor  
7 or any City Commissioner may seek advice from the City Attorney on questions  
8 of evidence. During the presentation by the opponents or proponents of an  
9 issue before the City Commission, no one may present testimony or evidence  
10 which is unduly cumulative or repetitious of previously presented testimony or  
11 evidence by a fellow opponent or proponent.

12 **(F) Public Hearing**

13 After the quasi-judicial hearing is completed, those members of the public who were not  
14 a party to the quasi-judicial hearing may be permitted to speak up to five (5) minutes per  
15 person and present their testimony and evidence to the City Commission. No party or  
16 witness shall be allowed to speak during the public hearing portion of the proceedings.

17 **(G) Continuances**

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

20 **(H) City Commission Deliberation**

21 The City Commission shall then further deliberate a motion, if necessary, and reach a  
22 decision by voting on the motion. In reaching its decision the City Commission may only  
23 consider evidence presented at the hearing and base its decision on the competent,

1 substantial evidence of record.

2 **(I) City Commission Oral Order**

3 The City Commission shall orally issue an order.  
4

5 **(J) City Commission Written Order**

6 The order shall be reduced to writing and shall state whether the petition is granted or  
7 denied or granted with conditions. The order shall also specify any conditions,  
8 requirements or limitations on the approval of the matter. The written order shall be  
9 presented to the City Commission for approval at a special meeting or at the next regular  
10 meeting of the City Commission. The Mayor and the Clerk of the City Commission shall  
11 execute the order. Executed copies of the order shall be hand delivered or mailed to the  
12 parties.  
13

14 **Part III. Informal Quasi-Judicial Hearings**

15 **(A) Informal Quasi-Judicial Hearing Procedure**

- 16 1) If no person files a timely request for a formal quasi-judicial hearing, the matter  
17 shall be set for an informal quasi-judicial hearing.
- 18 2) An informal hearing shall be presented to the City Commission in the following  
19 order:
- 20 a) Staff presentation
  - 21 b) Petitioner or Applicant
  - 22 c) Public hearing
  - 23 d) Deliberation and vote of the City Commission

1           3)     Cross-examination of the witnesses is not permitted and deemed waived  
2           by all persons\_or parties. This provision does not prohibit a City Commission  
3           member from questioning any person relevant to the matter.

4           4)     The City Manager or designee shall present any staff, board or other  
5           report on the matter. Evidence before the Commission shall include, but not be  
6           limited to, an analysis which includes the consistency with the City's adopted  
7           codes, rules, policies or plans, as applicable, and how the matter or Petition does  
8           or does not meet the requirements of such codes, rules, policies, plans and other  
9           applicable laws; written reports and any other documentary evidence shall  
10          become a part of the record. Evidence may be presented through oral testimony  
11          of witnesses or documentary evidence or both.

12          5)     Any person may speak for or against the matter if they complete a  
13          registration card at the meeting as provided by the Clerk of the Commission. The  
14          Mayor may limit the time of any portion of an informal hearing to avoid  
15          unnecessary repetition and delay.

16          6)     After the public hearing portion, the City Commission shall deliberate and  
17          vote, which shall constitute the oral order.

18                                   **Part IV. Ex Parte Communications**

19    1)     General

20           Ex parte communications are prohibited in connection with any quasi-judicial hearing  
21           under Florida case law.

22    2)     Procedures when an ex parte communication is received.

23           Should an ex parte communication be received by an individual commissioner the

1 following shall take place:

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

7 B. Oral Communications - As soon as it becomes apparent that an inadvertent oral  
8 communication pertains to a matter coming before the Commission, the  
9 Commissioner should explain to the person that the communications is improper  
10 and that he or she is required to end the communication on that subject. At the  
11 time the item comes up for discussion at the Commission meeting, the  
12 Commissioner should report any attempted "ex parte" communication.

13 3) *Party inquiry*

14 Any party may ask questions to a Commissioner about any *ex parte* communications  
15 directed through the Mayor.

16  
17 **RULE XXII.**

18 **WAIVER OF THESE RULES**

19 These rules may be waived by a 2/3rds vote of the members present.

20 **SECTION 2.**

21 All resolutions in conflict herewith are repealed. This resolution shall become effective  
22 immediately upon adoption and will remain in effect until amended or repealed.