

**ADMINISTRATIVE PROCEDURES**  
**Historic District Council**  
**City of Fernandina Beach**

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# ADMINISTRATIVE PROCEDURES

## Historic District Council City of Fernandina Beach

### I. INTRODUCTION

The Historic District Council (HDC) of the City of Fernandina Beach, FL, was established to be the City's primary agency responsible for furthering historic preservation within the city. It is responsible at the local level for ensuring compliance with the Secretary of the Interior's Standards for Rehabilitation. There are five (5) regular members and two (2) alternate members, all appointed by the City Commission, acting upon recommendations of the Historic District Council. The term of office is three (3) years. Members serve at the pleasure of the City Commission.

The Council functions to protect sites of historical and architectural significance by acting as a design-review board for exterior alterations, repairs, moving or demolition of structures or historic landscape features as well as new construction within the city's local historic districts and within the City's Community Redevelopment Area (CRA). The purpose of the review process is to ensure that any proposed construction or changes are compatible with existing historic features and/or design guidelines in terms of design, texture, material, siting and location.

The members of the Historic District Council are city residents whose interests, backgrounds and experience provide the City with expert advice on matters pertaining to the preservation of districts and specific buildings of the City that reflect elements of its cultural, social, economic, political and architectural history.

### II. MISSION AND GOALS

The mission of the Historic District Council is to preserve and protect the cultural and architectural heritage of the City of Fernandina Beach as set forth in the City's Charter and Land Development Code.

The goals of the Historic District Council:

- Safeguarding the City's historic architectural resources by applying *The Secretary of Interior's Standards for Rehabilitation*, the City's land development code and applicable design guidelines fairly and consistently in reviewing applications for Certificates of Appropriateness;
- Seeking or assisting others seeking National Register listing for historic properties;
- Monitoring the health of the City's historic districts through periodic re-surveys;
- Recommending administrative changes as required to strengthen code and guidelines for dealing with matters that affect the preservation of historic properties, districts and sites and other cultural and archaeological resources; and
- Fostering and encouraging the preservation of private and public historic, cultural, and archaeological resources through public education.

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#### III. ROLES AND RESPONSIBILITIES OF THE HISTORIC DISTRICT COUNCIL

(City of Fernandina Beach Land Development Code, Chapter 9.03.04)

A. Identify, study, and recommend sites, structures, buildings, improvements, artifacts, and areas for designation as historic landmarks, historic sites, or historic districts.

B. Maintain and update the historic properties survey as an inventory of historic landmarks, historic sites, and properties in historic districts. All inventories shall be compatible with the Florida Master Site File, which exemplifies the format used for statewide comprehensive historic preservation planning, and kept current and regularly provided to the state historic preservation officer for incorporation in the Florida Master Site File.

C. Review and approve or deny applications for a certificate of appropriateness for construction, alteration, demolition, or removal of historic landmarks, historic sites, or properties in historic districts and the CRA Overlay based upon interpretation of *The Secretary of Interior's Standards for Rehabilitation*, locally adopted design guidelines and the City's Land Development Code.

D. Review and make recommendations on National Register nominations for structures and sites located in the city.

E. Make recommendations to the City Commission concerning the assignment of development rights or façade easements, or the imposition of other restrictions.

F. Hear applications for variances within the Historic District Overlay and the CRA Overlay.

G. Increase public awareness of the value of historic, architectural, and cultural preservation by developing and participating in public preservation information programs, and by updating such programs and public information documents.

H. Make recommendations to the City Commission concerning the solicitation of grants from federal and state agencies, private groups, and individuals, and promote the preservation of historic or architecturally significant landmarks, sites, or properties in historic districts.

I. Promulgate standards for architectural review.

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J. Evaluate and comment upon proposals pending before other public agencies affecting the physical development and land use patterns in or around historic landmarks, sites, or districts.

K. Make recommendations to the City Commission on the purchase of historic landmarks, historic sites, or properties in historic districts where private preservation is not feasible.

L. Perform any other functions that may be designated by resolution or ordinance of the City Commission.

#### **IV. APPOINTMENT GUIDELINES**

A. Applications for membership may be submitted at any time to the City Clerk.

B. Applications will be kept on file for a period of two years. Applicants will be contacted to ensure their continued interest in serving on the HDC before submittal to the City Commission for appointment.

C. In recommending applicants for appointment, the HDC will look for individuals whose credentials are directly related to the mission and work of the HDC and who bring strengths in the areas of historic preservation, including architecture, design, history, construction, archaeology and anthropology.

D. Per LDC Section 9.01.01, a member of the HDC who is seeking re-appointment shall continue to be a voting member for two (2) months to allow for the finalization of the re-appointment by the City Commission.

#### **V. EXPECTATIONS FOR HDC MEMBERS**

A. As representatives of the City of Fernandina Beach in their appointed roles, all members will conduct themselves in a manner that demonstrates respect, integrity, teamwork, and competence.

B. Members will regularly attend all meetings. Members will notify the staff liaison and/or Chair of planned absences prior to meetings.

C. Members will adhere to all "Florida Sunshine Law" requirements in all communications and interpersonal dealings.

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- D. Members will familiarize themselves with all applicable and adopted guidelines, requirements, and ordinances relating to the City's historic preservation efforts.
- E. Members will prepare themselves in advance for meetings and will be willing to take on special assignments if requested by the Historic District Council or its Chair.
- F. Members will recuse themselves from cases that present a conflict of interest (see Appendix E).
- G. Members will consider input from citizens interested in an issue or parties impacted by actions of the body prior to making a final determination on an issue.
- H. Members will apply all rules, regulations, policies, procedures and guidelines equally to all applicants during quasi-judicial hearings.
- I. Members will treat each other and City staff with fairness and respect. Interactions between HDC members and City staff not meeting this standard should be brought to the attention of the City Manager immediately.
- J. Members will promptly file the annual Financial Disclosure Statement with the County Supervisor of Elections as required by law (see Appendix E).

## **VI. OFFICERS; SELECTION AND DUTIES**

- A. Selection of a Chair and Vice-chair: Annually during the first regular meeting following the City's reorganization meeting, the HDC shall select a Chair and a Vice-chair to serve one-year terms. Officers shall not serve more than two (2) consecutive terms in the same office.
- B. Duties of the Chair:
  - 1. Preside at all regular and special meetings. Conduct meetings in an efficient manner, focusing on the issues relevant to the functions and mission.
  - 2. Regulate and facilitate discussion among board members to ensure that all viewpoints are represented. Give each member the opportunity to express ideas and/or concerns on issues that are being considered by the board or commission.
  - 3. As necessary, appoint alternates to serve in lieu of regular members; appoint member to serve in the absence of the Vice-chair.
  - 4. Assist in orienting new board members about the function, role and mission of the HDC.
  - 5. Assist in mediating conflicts or disputes between board/commission members.

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6. Represent the HDC in appearing before the City Commission as required.
7. Serve as primary contact with City staff.
8. Appoint members to serve on committees.
9. Foster compliance with the “Florida Sunshine Law.”
10. Sign Certificates of Appropriateness, approved minutes, and Findings of Fact.

C. Duties of the Vice-chair:

1. Serve in the absence of the Chair.
2. Accept special assignments from the Chair.
3. Sign approved minutes and Findings of Fact.

**VII. ATTENDANCE, QUORUM AND VOTING REQUIREMENTS**

A. Any member who has been absent for three (3) regular meetings in one (1) year shall be subject to removal. When a member has been absent for three (3) or more consecutive meetings (or 25% of the annual meetings), such absences and the reasons therefore shall be communicated to the City Manager and the City Commission. The City Commission may elect to treat such absences as the member’s resignation. Resignations shall be effective when accepted by the HDC and/or the City Commission.

B. A majority of the members of the HDC shall constitute a quorum for the transaction of business.

C. Approval of actions, other than variances, requires an affirmative vote of the majority of the members present. Approval of a variance requires an affirmative vote of four (4) members.

**VIII. PUBLIC INPUT AND PARTICIPATION**

A. All meetings of the HDC are open to the public. Citizens shall be provided reasonable opportunity to address the HDC on any agenda item or any public matter in which the HDC has jurisdiction or authority. However, except in the case of quasi-judicial matters, public input is at the discretion of the chair upon a general consensus of the

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members. In the case of public input on non-agenda items, citizens may be directed to staff who shall attempt to resolve an issue outside of the context of the HDC meeting.

B. Quasi-judicial proceedings must provide an opportunity for participation in the process by an aggrieved or adversely affected party, allowing a reasonable time for the party to prepare and present a case. The process must provide an opportunity for the disclosure of witnesses and exhibits prior to hearing and an opportunity for the depositions of witnesses to be taken. At the hearing, all parties must have the opportunity to respond, to present evidence and argument on all issues involved, and to conduct cross-examination and submit rebuttal evidence. Public testimony must be allowed (see Appendix C).

C. When a group of persons wishes to address the HDC on the same subject matter, the chair may request that a spokesperson be chosen by the group to address the HDC and to limit the number of persons addressing the HDC on the same matter to avoid unnecessary repetition.

D. Any person making offensive, insulting, threatening, insolent, slanderous or obscene remarks or who becomes boisterous or who makes threats against any person or against public order and security while in the meeting room shall be forthwith removed at the direction of the Chair from further audience at the meeting, unless permission to continue is granted by the majority vote of the HDC members present.

## **IX. MEETING PROCEDURE; ORDER OF BUSINESS; QUASI-JUDICIAL HEARING PROCEDURE AND RULES**

Meetings of the Historic District Council are conducted in substantial conformance with *Roberts Rules of Order* (See Appendix F).

### **1. CALL TO ORDER**

The Chair will call the meeting to order at the scheduled time, making sure that members, attorney, staff and recording equipment are ready. The Chair welcomes the public.

### **2. ROLL CALL / DETERMINATION OF A QUORUM**

The chair will direct the secretary to call the roll, and make a quorum determination.

1. If there is not a quorum present within fifteen (15) minutes following the scheduled starting time of the HDC meeting, the Chair can call the meeting to order, announce the absence of a quorum and adjourn the meeting. The Chair can also call the meeting to order and then entertain a motion to adjourn, to fix the time to adjourn, to recess, or take measures to obtain a quorum.

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2. The chair will recommend seating alternates in place of absent members and will designate a member to act as Vice-chair, should the Vice-chair be absent.

3. If there is a quorum present but because of the nature of the business, any motion to approve would require a unanimous vote, applicants should be so advised and be given the opportunity to reschedule their cases for the next regular meeting with no additional charges or fees.

4. Any member who has a conflict of interest (see Appendix E) in hearing any case on the agenda should recuse himself or herself at this time and announce the reason for recusal for the record.

### 3. APPROVAL OF MINUTES

Chair calls for approval of minutes (may be done by voice vote). Chair and Vice Chair sign approved minutes.

### 4. QUASI-JUDICIAL HEARINGS: PROCEDURE AND RULES.

The Chair asks the Board Attorney to explain nature of quasi-judicial hearings (see Appendix C), which include the following points:

1. If the applicant or his agent or attorney does not desire to present evidence and rely on the application and the staff comments, they may do so, reserving their right to address any evidence against the application.

2. Those who present evidence for or against will be sworn in. All those who present evidence should be prepared to present evidence that specifically addresses the criteria in the case, the land development code, appropriate guidelines adopted by the city and/or *The Secretary of Interior's Standards for Rehabilitation*.

3. The applicant will have the opportunity to present evidence for the application and present any witnesses. The applicant may also call staff members that are present as a witness and ask them questions. The applicant has a right to cross-examine witnesses.

4. Each person presenting evidence will address the HDC from the podium, and if there are documents or photos they must be presented when the particular individual is testifying. All documents will become part of the record.

5. At a quasi-judicial hearing, the number of individuals for or against a particular item cannot and will not be a factor for decision-making purposes.

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6. Since the meeting is being taped, all persons speaking to the HDC must identify themselves by name and address at the podium before speaking. There cannot be any applause or outbursts or talking except by those appearing at the podium, as it will distort the recording.

7. All persons desiring to speak must address the HDC, not the applicant or other speakers.

The City Attorney will answer audience questions on procedures to be followed.

B. Chair calls for disclosure of ex-parte communications by HDC members.

If there have been oral, written, or electronic ex-parte communications between HDC members and City staff or applicants, each member should give a brief description of those communications and the parties involved. If a board member made a site visit s/he should indicate the number of visits and approximate dates.

C. Chair asks clerk to swear in all who plan to give testimony on any scheduled case.

### 5. OLD / NEW BUSINESS

Prior to calling cases, the Chair will verify the order and/or need to table or postpone cases. If an applicant does not appear when his/her case is called, the HDC will table the case to the end of New Business. If the applicant fails to appear by the end of New Business, the HDC will postpone the case until its next Regular meeting. The Chair will advise the applicants and the public of the following:

- All applicants and persons desiring to be heard on cases will be permitted to address the HDC.
- Anyone desiring to speak must have been sworn in and must speak from the podium.
- All speakers must identify themselves by name and address.
- Speakers must direct comments and questions to the HDC, unless cross-examining witnesses.
- No public outbursts or applause will be permitted.
- The audience will be advised to silence electronic devices.
- Persons speaking for or against a case should limit comments to the matter at hand and avoid repetition.
- The Chair reserves the right to limit public input on any case to one appearance per presenter and 3 minutes per presentation.
- The Chair may exercise discretion to cut off public input if s/he determines that the speakers' comments are repetitive or not relevant.

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#### 6. ORDER OF PRESENTATION

Chair calls cases in order listed in agenda, absent requests to change order. For each case:

1. Brief synopsis by City Staff describing the nature of the application to be heard. Staff introduction of exhibits, including staff qualifications, all staff reports and recommendations. Staff orally summarizes issues and recommendations.
2. Presentation of evidence by applicant; cross-examination by other affected parties and HDC members. NOTE: Applicants may waive their right to present evidence and stand on the report or recommendation of staff, but still reserve their right to offer rebuttal and/or final presentation.
3. Chair opens public hearing.
4. Presentation of evidence by other affected parties in support of the application; cross-examination of same.
5. Presentation of evidence by other affected parties who oppose the application or who have questions of concern; cross-examination of same.
6. Chair closes public hearing.
7. Final presentation by applicant.
8. Final comments from City staff.
9. Deliberations by Historic District Council. NOTE: HDC members may ask questions of staff and/or applicant at any time during proceeding.
10. Historic District Council action. The Chair will entertain a motion. Any seated member, other than the Chair, may move to approve or deny a request for a variance or a certificate of appropriateness. The form of the motion includes the case number and the reason for approval or denial. Examples:
  - a. **Approval as submitted:** I move to approve HDC case number 20xx-xx for approval of the proposed changes to the [*insert information*]; AND I move that the HDC make the following findings of fact and conclusions of law part of the record; that HDC case 20xx-xx, as presented is substantially compliant with the Land Development Code, the [*insert applicable design guidelines*], and the Secretary of Interior's Standards to warrant approval at this time.

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- b. **Approval with modifications from original submission:** I move to approve HDC Case 20xx-xx for approval of the [*insert information*] with the following modifications: [*insert specific modifications*]; AND I move that the HDC make the following findings of fact and conclusions of law part of the record; that HDC case 20xx-xx, as presented and modified is substantially compliant with the Land Development Code, [*insert applicable design guidelines*], and the Secretary of Interior's Standards to warrant approval at this time.
- c. **Denial:** I move to deny HDC Case 20xx-xx because the proposed [*insert work*] [*insert explanation, referencing applicable guidelines as appropriate*].
- d. **Postpone:** If during the proceedings new evidence is presented that requires more investigation or study, or if the applicant introduces significant changes to the original application which require additional public notice, the Chair will entertain a motion to postpone the hearing indefinitely or to a time certain.

Any seated HDC member except the Chair must second the motion. If the motion does not receive a second, it dies. If the motion is seconded, the Chair calls for final discussion from HDC members. Following discussion, the Chair asks the secretary to call the roll. The Chair then announces the result of the vote.

- a. **For approvals:** The Chair signs the Certificate of Appropriateness and presents to the applicant. (When approval has been conditioned upon modifications, the applicant is instructed to pick up the modified Certificate of Appropriateness from the Community Development Department the following business day.)
- b. **For denials:** The Chair advises the applicant regarding a new application or appeal process.
- c. **For postponements:** The Chair sets the next hearing date and advises the applicant to consult with City staff on additional information needs for the case.

#### 7. STAFF APPROVED CERTIFICATES OF APPROPRIATENESS

The Chair will invite HDC members to raise any questions or concerns regarding staff approvals listed on the agenda for informational purposes. Note: The HDC has delegated to staff authority to approve certain types of actions, if the applicant's request falls within certain HDC approved parameters. (See Appendix G for a list of actions that may, under routine circumstances, be approved by staff.)

#### 8. REQUESTS FROM THE AUDIENCE TO BE HEARD ON ITEMS NOT ON THE AGENDA

At the conclusion of the business portion of the meeting, the Chair will invite members of the public to address the HDC on matters of concern not on the agenda. The Chair may

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limit each speaker to three (3) minutes. The HDC is not required to respond, but speakers may be referred to City staff for assistance or to be put on a future agenda.

#### **9. BOARD BUSINESS**

The Chair will report and take reports from HDC members; hold discussion among HDC members and staff on administrative or procedural matters; conduct elections. All members, whether seated or alternate, may vote on matters raised under this heading.

#### **10. STAFF REPORT**

City staff will report on new and emerging issues relating to historic preservation and the CRA. City staff will advise the HDC where assistance or leadership may be required. City staff will advise the HDC on any administrative or housekeeping matters requiring attention.

#### **11. ADJOURNMENT**

The Chair may adjourn the meeting at his/her prerogative independent of a motion.

### **X. PREPARATION OF MINUTES AND RECORD KEEPING REQUIREMENTS**

A City staff member will serve as HDC secretary. The secretary will record the HDC meetings and cause minutes to be produced for approval, generally at the next Regular HDC meeting. Minutes are available through request to the Community Development Department. All HDC case files will be retained in the Community Development Department until such time as they are deemed to be inactive. At that time they will be transferred to the City Clerk for archiving in accordance with standard policies and directives.

### **XI. BOARD RULES AND POLICIES**

A. Appearances before the City Commission. The Chair or his/her designee is the HDC spokesperson in all presentations or official appearances before the City Commission.

B. Media relations. HDC members may respond to press inquiries with individual opinions only and not represent the opinion of the HDC as a body. Only the Chair or his/her designee may articulate a position for the entire HDC, assuming that the HDC has taken such a position as a body.

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#### XII. HISTORIC DISTRICT COUNCIL STAFF

A. Generally. HDC Staff shall consist of one planner to serve as liaison to the HDC and one administrative staff member to serve as secretary to the HDC. The City shall make all efforts to hire a planner with an academic or professional background in historic preservation.

B. Planner Duties. The HDC planner shall be responsible for the following duties, including but not limited to:

- Consult with the public and applicants regarding the HDC application process.
- Provide staff reports regarding HDC applications to the HDC in advance of the monthly meeting.
- Coordinate with the HDC secretary to produce the monthly meeting agenda and legal notices.
- Process staff-level certificate of appropriateness applications as directed by the LDC.
- Review LDC and Comprehensive Plan policies regarding historic preservation and draft revisions in conjunction with the HDC when needed.
- Maintain the HDC Action Plan detailing HDC goals and objectives.
- Assist in completing Certified Local Government reporting requirements, including annual reporting regarding HDC activity.
- Participate in Technical Review Committee meetings regarding properties in the Historic Districts.
- Promote the public outreach and educational component of the HDC, including partnering with local non-profit and community organizations.
- Coordinate with the Grants Administrator regarding grant opportunities for preservation activities in the City.
- Assist the HDC with various activities and programming.

C. Continuing Education. Where feasible, HDC staff shall participate in educational opportunities and training regarding historic preservation and cultural resource protection.

D. Public Outreach. HDC Staff shall be responsible for creating educational publications on historic preservation and for coordinating updates to the Historic Districts and HDC websites.

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#### APPENDIX A – FERNANDINA BEACH LAND DEVELOPMENT CODE, SECTION 9.01.00

##### 9.01.00 REQUIREMENTS FOR ALL BOARDS AND COMMISSIONS

###### 9.01.01 Appointment, Term of Office, and General Membership Requirements

- A. All members and alternate members shall be appointed by the City Commission.
- B. Each Board shall have the opportunity to review each applicant's resume and make a recommendation on the appointment.
- C. All members shall reside within the City Limits.
- D. Elected officials and employees of the City shall not be eligible to serve on City boards or commissions, unless otherwise provided herein.
- E. Each member serves at the pleasure of the City Commission.
- F. The term of office for all regular board or commission members shall be three (3) years.
- G. A member of a Board who is seeking re-appointment shall continue to be a voting member for two (2) months to allow for the finalization of the re-appointment by the City Commission.

###### 9.01.02 Attendance

Each appointed member shall attend all regular and called meetings.

###### 9.01.03 Officers and Committees

- H. Each board or commission shall have a chairperson and a vice-chairperson.
- I. The chairperson and vice-chairperson shall serve one (1) year terms. Officers shall not serve more than two (2) consecutive terms.
- J. A board or commission may create whatever committees it deems necessary to carry out its purposes. The chairperson of the board or commission shall appoint the membership of each committee from the members of that board or commission.

###### 9.01.04 Removal and Vacancies

- A. When a position on a board or commission becomes vacant before the end of the term, an alternate member shall fill the vacancy.
- B. When no alternate member is available to fill a vacancy, the City Commission shall appoint a member to fill the vacancy for the duration of the term.
- C. When the unexpired term is two (2) months or less, the City Commission may appoint a new member to fill the unexpired term and the following full term.
- D. A member who moves outside the City or no longer meets eligibility requirements for membership shall be removed immediately.
- E. Any member who has been absent for three (3) regular meetings in one (1) calendar year shall be subject to removal.

###### 9.01.05 Public Meetings, Hearings, and Records

- A. All meetings and hearings of boards or commissions shall be open to the public.

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- B. Each board or commission shall keep minutes of its proceedings, indicating the attendance of each member and the decision of each member on every question. The minutes shall be signed by the chairperson and filed with the City Clerk.
- C. A record shall be made of all resolutions, transactions, findings, recommendations, and decisions, which record shall be a public record on file in the office of the City Clerk.

#### 9.01.06 Quorum and Voting

- A. For the purpose of transacting business at any meeting or hearing, a majority of the board or commission members shall constitute a quorum.
- B. Approval of actions, other than variances, before the board or commission requires an affirmative vote of a majority of the members. Approval of a variance requires an affirmative vote of four (4) members of the HDC or the Board of Adjustment.
- C. An alternate shall be seated in the following situations:
  - 1. When a regular member is absent;
  - 2. When a regular member abstains from a vote; or
  - 3. When a regular member is disqualified from a vote as provided for in Section 9.01.12.

#### 9.01.07 By-laws

- A. Each board or commission shall enact by-laws to govern its operation and procedures.
- B. By-laws shall not conflict with the requirements of this LDC. In the event of any conflict between the provisions of this LDC and the by-laws, the provisions of this LDC shall control.
- C. The following topics may be included in the by-laws:
  - 1. The designation of officers;
  - 2. The specific duties of officers;
  - 3. The creation of committees;
  - 4. Code of conduct;
  - 5. Voting procedures;
  - 6. Scheduling of meetings;
  - 7. Order of business; and
  - 8. Preparation of minutes.

#### 9.01.08 Parliamentary Authority

All meetings shall be conducted in accordance with parliamentary procedure as set forth and explained in the latest revised edition of Robert's Rules of Order, which shall serve as the official rules of procedure.

#### 9.01.09 Legal Representation

The City Commission may appoint legal counsel to represent a board or commission.

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#### **9.01.10 Compensation**

Members shall serve without compensation, but may be reimbursed for actual expenses incurred in connection with their official duties.

#### **9.01.11 Funding**

The City Commission may appropriate funds at its discretion for expenses necessary in the conduct of the duties of appointed boards and commissions.

#### **9.01.12 Conflict of Interest**

- A. A member shall abstain from voting on a particular issue, or may be disqualified by majority vote of the remaining members present, if any of the following circumstances apply:
  - 1. The member has a direct financial interest in the outcome of the matter at issue;
  - 2. The matter at issue involves the member's own official conduct;
  - 3. Participation in the matter violates the member's code of professional responsibility;
  - 4. The member has such close personal ties to a person involved with the issue that the member cannot reasonably be expected to exercise sound judgment in the public interest; or
  - 5. Other applicable law.
- B. If a member owns a property within the area entitled to receive mailed notice of the hearing, that board member may voluntarily abstain from voting if the board member believes that the proximity of the project will interfere with his or her ability to be a decision maker in the case.
- C. An abstaining or disqualified member of a board or commission shall not be counted for purposes of forming a quorum.
- D. A member who takes a position on the issue based upon personal interest may do so only by abstaining from voting on the proposal, vacating the seat on the board or commission, physically joining the audience, and making full disclosure of his status and position at the time of addressing the board or commission.
- E. A member who votes on a matter shall not address the City Commission on that matter.

#### **9.01.13 General Powers**

A board or commission may request information from any official, staff member, or department of the City, which is necessary in order to carry out specific roles and responsibilities.

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#### APPENDIX B – FERNANDINA BEACH LAND DEVELOPMENT CODE, SECTION 9.03.00

##### 9.03.00 HISTORIC DISTRICT COUNCIL

###### 9.03.01 Establishment

There is hereby established the Historic District Council (HDC). The HDC is intended to be the City's primary agency responsible for furthering historic preservation within the City.

###### 9.03.02 Membership

- A. There shall be five (5) regular members of the HDC.
- B. There shall be two (2) alternate members of the HDC.

###### 9.03.03 Authority to Seek Professional Expertise

- A. With City Commission approval, the HDC may obtain the services of qualified persons to direct, advise, and assist it.
- B. The HDC may request equipment, supplies, and other materials necessary for its effective operation.
- C. When the HDC considers National Register nomination proposals and other actions which are normally evaluated by a professional in a specific discipline, and that discipline is not represented on the HDC, it may seek professional expertise in this area before rendering a decision. City Commission approval is required for any such professional contracts.

###### 9.03.04 Roles and Responsibilities

The HDC shall have the duty and responsibility to:

- A. Identify, study, and recommend sites, structures, buildings, improvements, artifacts, and areas for designation as historic landmarks, historic sites, or historic districts.
- B. Maintain and update the historic properties survey as an inventory of historic landmarks, historic sites, and properties in historic districts. All inventories shall be compatible with the Florida Master Site File, which exemplifies the format used for statewide comprehensive historic preservation planning, and kept current and regularly provided to the state historic preservation officer for incorporation in the Florida Master Site File.
- C. Review and approve or deny applications for a certificate of appropriateness for construction, alteration, demolition, or removal of historic landmarks, historic sites, properties in historic districts, or properties in the CRA Overlay.
- D. Review and make recommendations on National Register nominations within its jurisdiction.
- E. Make recommendations to the City Commission concerning the assignment of development rights or facade easements, or the imposition of other restrictions.
- F. Hear applications for variances within the Historic District Overlay or the CRA Overlay.

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- G. Increase public awareness of the value of historic, architectural, and cultural preservation by developing and participating in public preservation information programs, and by updating such programs and public information documents.
- H. Make recommendations to the City Commission concerning the solicitation of grants from federal and State agencies, private groups, and individuals, and promote the preservation of historic or architecturally significant landmarks, sites, or properties in historic districts.
- I. Promulgate standards for architectural review.
- J. Evaluate and comment upon proposals pending before other public agencies affecting the physical development and land use patterns in or around historic landmarks, sites, or districts.
- K. Make recommendations to the City Commission on the purchase of historic landmarks, historic sites, or properties in historic districts where private preservation is not feasible.
- L. Perform any other functions which may be designated by resolution or motion by the City Commission.

#### 9.03.05 Certified Local Government Program

In order to comply with the Department of State, Division of Historic Resources, "certified local government" requirements, the HDC shall take the following actions:

- A. A copy of all duplicate inventory materials will be provided to the SHPO. This will include any new or revised resumes of the HDC members or staff.
- B. The SHPO shall be provided with thirty (30) days prior notice of all HDC meetings. In the event of a special meeting, reasonable notice shall be given.
- C. Minutes of all HDC meetings shall be submitted to the SHPO. These minutes shall include a record of attendance of council members, the public, and any change in council membership.
- D. The SHPO shall be notified immediately of all new historic designations or alterations to existing designations.
- E. Proposed amendments to the LDC pertaining to the Historic District Overlay shall be sent to the SHPO for review and comment thirty (30) days prior to the scheduled adoption hearing.
- F. Objections by property owners that are notarized and filed with the HDC shall be submitted to the SHPO in order to prevent involuntary nomination to the National Register.
- G. The HDC shall submit an annual report to the SHPO on or before November 1 of each year covering the previous October 1 through September 30 period. The annual report shall include:
  - 6. Any changes or amendments to HDC rules of procedure;
  - 7. The number of proposals and applications reviewed by the HDC;
  - 8. New historic designations or alterations to existing designations;
  - 9. Changes to the HDC;
  - 10. New or revised resumes of HDC members or staff;

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11. Changes or requested changes to the Historic District Overlay regulations;
12. Review of the survey and inventory activities with a description of the system used; and
13. A program report on each grant-assisted activity.

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## APPENDIX C – QUASI-JUDICIAL HEARINGS: PROCEDURES AND RULES

### 11.04.00 QUASI-JUDICIAL HEARINGS

#### 11.04.01 Generally

- A. A quasi-judicial hearing shall be scheduled when all required reports and procedures have been completed. A quasi-judicial hearing shall not be scheduled until an applicant has paid all outstanding amounts.
- B. A quorum of the decision-making entity shall be present.
- C. The hearing shall be conducted in a manner to protect the due process rights of the applicant and affected parties.
- D. All testimony presented by the applicant, any affected party; any witness for a party, or the staff (other than legal advice given by the City attorney) shall be given under oath.
- E. The applicant, any affected party, and the staff may cross-examine any person presenting information at the hearing.
- F. An electronic record shall be made of the hearing.
- G. A member of a decision-making entity shall not willfully participate in an ex parte communication regarding a pending application. All ex parte communications are presumed prejudicial, unless the approximate date and general substance of the ex parte communication is disclosed at the beginning of the quasi-judicial hearing at which the decision-making entity considers the pending application. The City may rebut the presumption of prejudice by demonstrating the absence of any actual prejudice to any party challenging the validity of a decision-making entity's decision on the basis of ex parte communications.
- H. Members of the general public may provide comment during the hearing. If a member of the general public desires his or her testimony to be considered as potential competent substantial evidence, such person shall be placed under oath and subject to cross-examination.
- I. The decision-making entity may question the applicant, other parties, witnesses, and the City staff at any time during the hearing.
- J. The decision-making entity may approve, approve with conditions, or deny the matters under consideration. The decision shall be based upon competent substantial evidence presented during the hearing.
- K. The decision-making entity shall enter a written order which contains findings of fact and conclusions of law in support of its decision.
- L. The decision-making entity's written order shall be transmitted and filed with the City Clerk as part of the official records of the City.

#### 11.04.02 Conduct of Quasi-Judicial Hearings

All quasi-judicial hearings shall be conducted in the following order:

- A. The chairperson of the decision-making entity shall call the hearing to order at the time specified on the public notice.

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- B. The City Manager shall confirm that the notice requirements were met.
- C. Each member of the decision-making entity shall disclose the existence and general substance of any conflicts and ex parte contacts.
- D. The City Manager shall present the compliance report regarding the pending application.
- E. The applicant shall present evidence supporting the application and shall bear the burden of demonstrating that the application should be granted.
- F. An affected party is entitled to present evidence opposing the application.
- G. Public comment.
- H. Rebuttal by the City Manager, any affected party, and the applicant.
- I. Conclusion of the evidentiary portion of the hearing.
- J. Closing arguments by the City Manager, any affected party, and the applicant.
- K. Deliberation by the decision-making entity.

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#### APPENDIX D – FLORIDA SUNSHINE LAW

Florida's Government in the Sunshine Law provides a right of access to governmental proceedings at both the state and local levels. The law is equally applicable to elected and appointed Boards and Commissions, and has been applied to any gathering of two (2) or more members of the same Board to discuss some matter which will foreseeably come before that Board for action. There are three basic requirements of §286.011, Florida Statutes:

1. Meetings of public Boards and Commissions must be open to the public;
2. Reasonable notice of such meetings must be given; and
3. Minutes of the meetings must be taken.

The law applies to elected and appointed Boards, Commissions, Committees and Authorities of any government agency in the state of Florida. It equally binds advisory boards whose powers are limited to making recommendations to a public agency and which possess no authority to bind that agency.

Even though an Advisory Board, Committee or Commission must submit their recommendations for review by an elected body it does not exempt them from the provisions of this law.

Meetings are defined as any gathering whether formal or casual of two (2) or more members of the same Board, Committee or Commission to discuss some matter on which foreseeable action will be taken by the public board or commission. This rule extends to telephone conversations and e-mail communication, and even instant messaging conversations, whether on personal or public devices. This can extend further to a casual lunch between 2 members of a Committee – if they discuss some issue that the appointed body to which they belong, that lunch becomes a public meeting and is subject to all of the provisions of the *Sunshine Law*.

While this may seem very restrictive, it is not the case. Appointed members of Boards, Committees and Commissions must remain aware of with whom they are communicating and what is being discussed. The safest course of action is to avoid discussion about matters that will come before the advisory body, with other members of your advisory body, except when attending a meeting of that body. Should you have any questions about this law, contact City staff with your concern or visit the Florida Attorney General's website ([myfloridalegal.com](http://myfloridalegal.com)).

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#### APPENDIX E – CONFLICT OF INTEREST AND FINANCIAL DISCLOSURE

Section 112.3143(3)(a), F.S., prohibits a county, municipal, or other local public officer from voting on any measure which inures to his or her special private gain or loss; which the officer knows would inure to the special private gain or loss of any principal or parent organization or subsidiary of a corporate principal, other than a public agency, by whom he or she is retained; or which the officer knows would inure to the special private gain or loss of a relative or business associate of the officer. An exception exists for a commissioner of a community redevelopment agency created or designated pursuant to s. 163.356, F.S., or s. 163.357, F.S., or an officer of an independent special tax district elected on a one-acre, one-vote basis. Section 112.3143(3)(b), F.S.

#### CONFLICT OF INTEREST

Generally, a conflict of interest exists when a board member has the potential to influence a decision of the board that will materially affect the board member's financial interest. Questions involving conflicts of interest are each unique unto themselves, and each potential conflict must be considered individually in order for proper legal guidance to be given.

Florida law requires that all persons appointed to boards or committees must abstain from participating in any matters before their board or committee that may have an impact on their financial interest. In effect, if a board or committee member does business with a person or business coming before the board or committee, it is essential for that the members not participate in the proceedings, or the individual will be in violation of the law. In addition, members of boards and committees are required to abstain from voting when a conflict of interest is involved. This means that they may not vote on any matter that may have an impact on themselves, a family member, or someone who retains their services.

When an individual abstains from voting, a voting conflict form provided by the City, must be completed and returned within fifteen (15) days after the vote occurs. This form must be attached to the official minutes of the meeting during which the conflict occurred. Any member who has a question concerning a potential conflict of interest should contact the City Attorney's office or a private attorney before taking any official action on the matter where the conflict may exist.

#### FINANCIAL DISCLOSURE

Florida law requires that all persons appointed to boards or committees disclose any financial interests they have by filing disclosure forms and must abstain from participating in any matters before their board or committee that may have an impact on their financial interest.

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Statement of Financial Interest (Form 1) must be filed with the County Supervisor of Elections within 30 days of appointment and by July 1 of each year thereafter. Copies of the form may be obtained from the Supervisor of Elections or downloaded from the worldwide web at the following URL: <http://www.ethics.state.fl.us/ethics/forms.html>.

A failure to make any required disclosure constitutes grounds for and may be punished by removal from office, reprimand and/or a civil penalty not exceeding \$10,000. [Section 112.317 Florida Statutes]. Also, if the annual form is not filed by September 1<sup>st</sup>, a fine of \$25 for each day late will be imposed, up to a maximum penalty of \$1,500. [Section 112.3145 F.S.].

### DEFINITIONS

In considering whether a conflict of interest may exist, the following definitions may prove helpful:

**Breach of the public trust:** A violation of a provision of the State Constitution or Florida Statutes which establishes a standard of ethical conduct, a disclosure requirement, or a prohibition applicable to public officers or employees in order to avoid conflicts between public duties and private interests.

**Business Associate:** Any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, co-owner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

**Material interest:** A direct or indirect ownership of more than five (5) percent of the total assets or capital stock of any business entity. For the purposes of this act, indirect ownership does not include ownership by a spouse or minor child.

**Public Officer:** Any person elected or appointed to hold office in any agency, including an advisory body.

**Relative:** An individual who is related to the HDC member as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, or wife.

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#### APPENDIX F -- MEETING PROCEDURE

A. **POINTS OF ORDER.** HDC meetings are conducted in substantial accordance with *Roberts Rules of Order*. Under these rules, the following points are always in order:

1. **Point of Order:** a question about process, or objection and suggestion of alternative process. May include a request for the chair to rule on process.
2. **Point of Information:** a request for information on a specific question, either about process or about the content of a motion. This is not a way to get the floor to say something you think people should know.
3. **Point of Personal Privilege:** a comment addressing a personal need - a direct response to a comment defaming one's character, a plea to open the windows, etc.

B. **MOTIONS.** All motions must be seconded, and are adopted by a majority vote unless otherwise noted. All motions may be debated unless otherwise noted. Motions are in order of precedence: motions may be made only if no motion of equal or higher precedence is on the floor (i.e., do not do **move to end debate** (#5) when the body is discussing a **move to suspend rules** (#4).

1. **Motion to Adjourn:** not debatable; goes to immediate majority vote.
2. **Motion to Recess:** not debatable. May be for a specific time.
3. **Motion to Appeal the Chair's Decision:** Not debatable; goes to immediate vote, and allows the body to overrule a decision made by the chair.
4. **Motion to Suspend the Rules:** suspends formal process for dealing with a specific question. Debatable; requires simple majority vote.
5. **Motion to End Debate and Vote or Call the Question:** applies only to the motion on the floor. Not debatable; requires simple majority vote.
6. **Motion to Extend Debate:** can be general, or for a specific time or number of speakers. Not debatable.
7. **Motion to Study:** applies only to the main motion. Refers question to a specific group with a specific time and charge.
8. **Motion to Amend:** must be voted for by a majority to be considered and by a simple majority to be passed. If amendment is accepted as "friendly" by the proposer of the amendment then many bodies will allow it to be accepted without a formal vote; this is a way of including a consensus-building process into procedure without endless debate over amendments to amendments. Strictly speaking, however, once the main motion is made it is the property of the body to amend.

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- 9. Main Motion:** what it is you're debating and amending.
- 10. Voice Vote:** The form of voting on a motion by which the chairman asks those in favor to respond to the motion in question by saying “aye” and then asks those opposed to the motion to say “no”. If the “ayes” have the majority the chairman will state that the motion has passed. If the prevailing side is negative, the chairman will state that the motion is denied.
- 11. Roll Call Vote:** The form of voting on a motion by which the chair directs the clerk to call the roll. Each member answers as their name is called and the clerk records their vote. Upon completion of the roll the clerk reads the names of those who voted in the affirmative and then the names of those who voted in the negative. The total is then given to the chair who announces the result. An entry must be made in the minutes of each member and how they voted. This method of voting must used for quasi-judicial hearings.
- 12. Motion to Reconsider:** A motion to reconsider an item already voted upon may be made by any member who voted in the majority on that decision, provided that the motion is made no later than the next regular meeting.
- 13. Motion to Table.** The motion to Lay on the Table is undebatable and cannot have any subsidiary motion applied to it. A motion to table may not extend beyond the end of the meeting in which the motion is approved; to consider an item that has been tabled, there must be a motion to remove the item from the table for action.
- 14. Motion to Postpone.** The motion to Postpone to a Certain Time (or Postpone Indefinitely) allows for limited debate which must not go into the merits of the main question any more than is necessary to enable the assembly to determine the propriety of the postponement.

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**APPENDIX G: ACTIONS APPROVABLE BY CITY STAFF IN LIEU OF HDC HEARING**

PER LDC SECTION 11.03.09 (H):

Minor improvements which are subject to City Manager approval if in compliance with the guidelines adopted as set forth in Section 4.03.02(B) and the LDC are as follows:

1. Paint colors;
2. Fences and/or retaining walls;
3. Roof repairs and replacements;
4. Signs;
5. Routine maintenance and repairs;
6. Landscaping and landscape features such as pavers and fountains;
7. Removal or substantial trimming of specimen trees; and
8. Foundation enclosures.