



THE CITY OF KEY WEST – PLANNING DEPARTMENT

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*Executive Summary*

To: Sam Holland, Chairman, Planning Board  
From: Roy Bishop, Planning Director  
Meeting Date: October 17, 2019  
RE: Governance of City of Key West Planning Board

**ACTION STATEMENT:**

The Planning Department's Planning Board is governed by the following set of rules and regulations, as amended from time to time.

1. Powers and Duties: City of Key West Code of Ordinances: Subpart B, Land Development Regulations, Chapter 90, Article II, Division 2, Sections 90-51 through 90-68.
2. Sunshine Law: Chapter 286 of the Florida Statutes.
3. Robert's Rules of Order/Parliamentary Procedure.
4. City of Key West Code of Ordinances: Article V, Division 1 & 2, Section 2-285; Article II, Division Sections 90-26 – 90-50, Division 2 Planning Board.
5. Recusal Forms: Section 112.3143 entitled Voting conflicts; Florida Statutes: Form 8B – Memorandum of Voting Conflict for County, Municipal and other local public officers.
6. Public Records: Chapter 119 of the Florida Statutes.
7. Conduct of Public Hearings: Dated 1/29/2008 by former Assistant City Attorney Larry Erskine; amended by Assistant City Attorney George Wallace 9/30/19.
8. Annual Report of Governance as outlined in Key West Code of Ordinances, Division 2, Planning Board, Section 90-66.

**CONCLUSION:**

The Planning Department is governed by numerous ordinances, statutes and parliamentary procedure, therefore allowing oversight and guidance in procedural matters.

Sec. 90-51. - Established; designated as local planning agency; authority and responsibilities generally.

- (a) Pursuant to and in accordance with F.S. § 163.3174 of the Local Government Comprehensive Planning and Land Development Regulation Act, the city commission finds that planning of land use and continuing growth management evaluation within the city is a public purpose benefiting the safety, economic and cultural welfare of the citizens of the city. The city commission further finds that this public purpose can best be achieved by establishing the planning board, which is established and designated as the local planning agency (LPA) for the city.
- (b) Pursuant to and in accordance with F.S. § 163.3175(5) and F.S. § 163.3177(1) of the Local Government Comprehensive Planning and Land Development Regulation Act, the city commission finds that there is a public purpose in coordinating the planning of the city with the Monroe County School Board and the U.S. Military in Key West and adjacent areas.
- (c) The planning board shall have the authority and responsibility to review land use in the city and evaluate planning and regulatory techniques for resolving physical, economic, social, environmental and fiscal issues. The city commission directs the planning board to carry out functions and powers identified in the land development regulations. The planning board shall use the power and authority conferred upon it by the land development regulations to further its stated public purpose.

(Ord. No. 97-10, § 1(1-2.4(A)), 7-3-1997; Ord. No. 06-10, § 1, 5-2-2006)

Sec. 90-52. - Membership, terms and removal.

- (a) The planning board shall consist of seven members. The five members serving on the board upon adoption of this ordinance shall continue in office, subject to the other provisions in this code, until the expiration of their term. The five members serving on the planning board upon adoption of this ordinance and the two additional members shall be assigned to individual commission members via a lottery system. The two commission members drawing the two new board seats shall expeditiously appoint a member to comprise the new seven person board. Thereafter the appointments shall be as specified in paragraph (b) below. All planning board members must be residents of the city and shall remain city residents for the duration of their memberships on the board.

- (b) The mayor and each city commissioner shall appoint one member of the board. The term of the board member shall be for a period of three years except that appointments to replace a member vacating before the expiration of the term shall be for the unexpired term of that member. Board members may be reappointed at the expiration of their term.
- (c) All planning board members shall serve at the pleasure of the city commission and may be removed by majority vote of its full membership. If a member is absent from two of three consecutive regular meetings without cause and without prior approval of the chairperson, the planning board shall declare the member's office vacant, and the chairperson shall notify the city commission that the member's office is vacant.

(Ord. No. 97-10, § 1(1-2.4(B)), 7-3-1997; Ord. No. 04-06, § 1, 4-6-2004; Ord. No. 08-04, § 1, 5-20-2008)

#### Sec. 90-53. - Compensation.

All members of the planning board shall serve without compensation but, as authorized by the city commission, may be reimbursed for actual expenses incurred in connection with their duties.

(Ord. No. 97-10, § 1(1-2.4(C)), 7-3-1997)

#### Sec. 90-54. - Liaisons.

- (a) The city commission shall appoint one of its members to maintain a liaison with the planning board.
- (b) There shall be a nonvoting ex-officio member of the planning board appointed by the Monroe County School District.
- (c) The base commander of the Naval Air Station Key West or designee shall be a nonvoting ex-officio member of the planning board.

(Ord. No. 97-10, § 1(1-2.4(D)), 7-3-1997; Ord. No. 06-10, § 2, 5-2-2006)

#### Sec. 90-55. - Functions and powers.

- (a)

The planning board shall have the power and authority to carry out the duties and responsibilities conferred upon it by the land development regulations consistent with F.S. § 163.3174 and shall perform these duties in the best interests of the health, safety, and welfare of the citizens of the city. The planning board shall have the following functions:

- (1) Be responsible for preparation and review of the comprehensive plan. During preparation of the plan prior to any recommendations to the city commission, the planning board shall hold at least one public hearing with due public notice on the proposed plan or element or portion thereof, pursuant to F.S. § 163.3174(4)(a), and make recommendations to the city commission concerning enactment;
- (2) Monitor and oversee the effectiveness and status of the comprehensive plan, review any proposed amendments to the comprehensive plan, prepare periodic reports required pursuant to F.S. § 163.3191, and make recommendations to the city commission concerning enactment;
- (3) Review proposed land development regulations and amendments thereto and make recommendations to the city commission as to the consistency of proposed land development regulations with the adopted comprehensive plan or element or portion thereof, pursuant to F.S. § 163.3174(4)(c);
- (4) Review major development plans submitted pursuant to article II of chapter 108 and make recommendations to the city commission regarding such plans;
- (5) Review minor development plans submitted pursuant to article II of chapter 108;
- (6) Review conditional uses as provided in article III of chapter 122, which may be part of a minor or major development plan;
- (7) Review and authorize in specific cases a variance from the terms of the land development regulations where the requirements of section 90-394 are met;
- (8) Review subdivision proposals submitted pursuant to chapter 118 and street dedication and reconfiguration proposals and make recommendations to the city commission regarding compliance with applicable laws and ordinances;
- (9) Conduct such public hearings as may be required to carry out the functions set forth in this subsection; and



- (10) Pursuant to F.S. § 163.3174(4)(d), perform any other duties which are assigned to the planning board by the city commission or by general or special law.
- (b) In performing functions set forth in subsections (a)(1) through (5) and (8) of this section, the planning board shall act only in an advisory capacity to the city commission and shall not render final determinations. When the planning board reviews and recommends actions regarding a conditional use which is part of a major development plan as referenced in subsection (a)(7) of this section, the recommendation of the planning board is advisory only, and the city commission shall render the final determination. Any appeal available by provisions of the land development regulations, where the planning board is acting only in an advisory capacity, shall be taken from the final determination of the city commission, and not from the recommendation of the planning board. For minor development plan review and conditional uses under subsections (a)(6) and (7) of this section, the decision of the planning board shall be final, unless the decision is appealed to the city commission within ten days of the decision.

(Ord. No. 97-10, § 1(1-2.4(E)), 7-3-1997; Ord. No. 08-04, § 2, 5-20-2008)

Sec. 90-56. - Appropriation of funds.

The city commission shall appropriate funds necessary for expenses incurred by the planning board in its performance of the functions listed in section 90-55. The planning board shall not have the power to contract with private or governmental persons or entities or to commit or expend city funds.

(Ord. No. 97-10, § 1(1-2.4(F)), 7-3-1997)

Sec. 90-57. - Rules of procedure.

The planning board shall establish and adopt rules of procedure, which shall include but are not limited to the following:

- (1) Election and duties of officers;
- (2) Meeting schedule, time, and place;
- (3) Establishing the order of business and the method of transaction;
- (4) Procedure for action and voting by members;

- (5) Conduct of public hearings;
- (6) Rules of conduct;
- (7) Parliamentary procedure;
- (8) Maintenance of records; and
- (9) Method of amending the rules.

(Ord. No. 97-10, § 1(1-2.4(G)), 7-3-1997)

Sec. 90-58. - Officers.

From among its voting members the planning board annually shall elect a chairperson and a vice-chairperson.

(Ord. No. 97-10, § 1(1-2.4(G)(1)), 7-3-1997; Ord. No. 06-10, § 3, 5-2-2006)

Sec. 90-59. - Regular meetings.

The planning board shall attempt to convene on a regularly scheduled basis at least once each month, or more frequently if necessary, and at a designated place to be determined by the planning board. The planning board may meet at such other times as the chairperson or planning board may determine.

(Ord. No. 97-10, § 1(1-2.4(G)(2)), 7-3-1997)

Sec. 90-60. - Notice of meetings.

All meetings of the planning board shall be open to the public, and notice of such meetings shall be published in a newspaper of general circulation in the city at least five days in advance thereof. At any special or regular meeting the planning board may set a future meeting date.

(Ord. No. 97-10, § 1(1-2.4(G)(3)), 7-3-1997)

Sec. 90-61. - Special meetings.

Special meetings of the planning board may be called by the chairperson or by written notice signed by four voting members. No official action shall be taken during any special meeting unless four members concur.

(Ord. No. 97-10, § 1(1-2.4(G)(4)), 7-3-1997; Ord. No. 16-12, § 1, 7-6-2016)

Sec. 90-62. - Quorum.

Four voting members of the planning board shall constitute a quorum for the transaction of business, but a smaller number may act only to adjourn meetings for lack of a quorum. The affirmative vote of a majority of the quorum shall be required to pass any action of the planning board.

(Ord. No. 97-10, § 1(1-2.4(G)(5)), 7-3-1997; Ord. No. 06-10, § 4, 5-2-2006; Ord. No. 16-12, § 2, 7-6-2016)

Sec. 90-63. - Preparation of agenda, minutes and other records.

- (a) All meetings of the planning board shall be open to the public. Except for emergencies so designated by a majority of the full membership, notice of all meetings shall be published as for a regular meeting, and an agenda shall be available to the public at city hall 48 hours in advance thereof.
- (b) Minutes shall be kept of all meetings of the planning board or committees thereof.
- (c) The planning board shall adopt rules for the transaction of its business and shall keep a properly indexed record of its resolutions, transactions, findings and determinations. Such record shall be a public record.

(Ord. No. 97-10, § 1(1-2.4(G)(6)), 7-3-1997)

Sec. 90-64. - Schedule for comprehensive plan review.

The planning board rules of procedure shall establish a schedule for the review of the comprehensive plan pursuant to F.S. § 163.3191 to determine whether comprehensive plan amendments are desirable.

(Ord. No. 97-10, § 1(1-2.4(G)(7)), 7-3-1997)

Sec. 90-65. - Public participation.

The planning board shall provide for effective citizen participation in the comprehensive planning process to the fullest extent possible consistent with F.S. § 163.3181. These procedures shall include but are not limited to the following:

- (1) Broad dissemination of detailed proposals and alternatives;
- (2) The opportunity for written public comments;
- (3) Public meetings after reasonable notice;
- (4) Provisions for open discussion at all meetings;
- (5) Development of communication programs;
- (6) Informational services;
- (7) Reasonable consideration of and response to public input; and
- (8) Assurance that real property owners are provided with notice of all official actions which will regulate the use of their property.

(Ord. No. 97-10, § 1(1-2.4(G)(8)), 7-3-1997)

Sec. 90-66. - Updates and other revision to rules of procedure.

From time to time, and by October 1 of each year, the planning board shall recommend to the city commission regulations for the conduct of its business, which recommendation shall govern the planning board upon approval or amendment by the city commission or upon the expiration of 45 days without final city commission action thereon. The rules are at all times subject to amendment by the city commission.

(Ord. No. 97-10, § 1(1-2.4(G)(9)), 7-3-1997)

Sec. 90-67. - Personnel.

The city manager shall provide staff support necessary to the planning functions of the planning board and shall provide secretarial support for the planning board in the execution of its duties and in order to record and transcribe in summary form, subject to planning board approval, the minutes of all planning board meetings. The city attorney shall serve as legal counsel to the planning board.

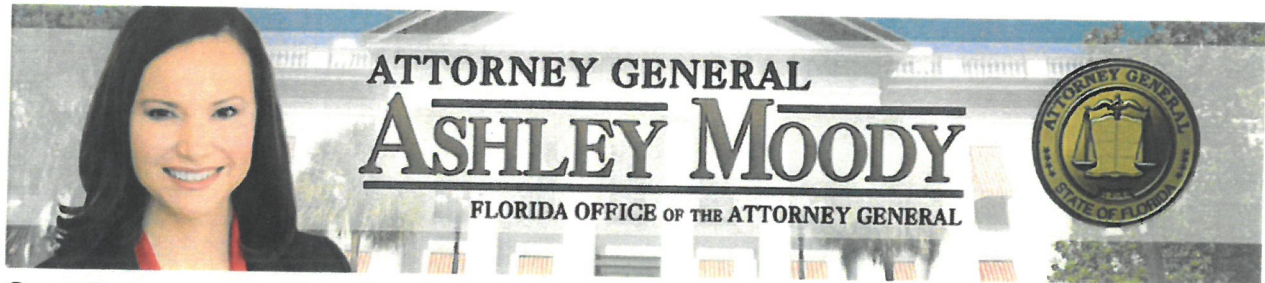
(Ord. No. 97-10, § 1(1-2.4(H)), 7-3-1997)

Sec. 90-68. - Appeal of final actions.

Provisions for appeal of final actions of the planning board are stated in division 4 of article V of this chapter.

(Ord. No. 97-10, § 1(1-2.4(I)), 7-3-1997)

Secs. 90-69—90-95. - Reserved.



## Open Government - The "Sunshine" Law

To assist the public and governmental agencies in understanding the requirements and exemptions to Florida's open government laws, the Attorney General's Office compiles a comprehensive guide known as the Government-in-the-Sunshine manual. The manual is published each year at no taxpayer expense by the First Amendment Foundation in Tallahassee.

Florida began its tradition of openness back in 1909 with the passage of Chapter 119 of the Florida Statutes or the "Public Records Law." This law provides that any records made or received by any public agency in the course of its official business are available for inspection, unless specifically exempted by the Florida Legislature. Over the years, the definition of what constitutes "public records" has come to include not just traditional written documents such as papers, maps and books, but also tapes, photographs, film, sound recordings and records stored in computers.

Florida's Government-in-the-Sunshine Law was enacted in 1967. Today, the Sunshine Law regarding open government can be found in Chapter 286 of the Florida Statutes. These statutes establish a basic right of access to most meetings of boards, commissions and other governing bodies of state and local governmental agencies or authorities.

Throughout the history of Florida's open government, its courts have consistently supported the public's right of access to governmental meetings and records. As such, they also have been defining and redefining what a public record is and who is covered under the open meetings law. One area of public concern was whether or not the Legislature was covered under the open meetings requirements. To address that concern, a Constitutional amendment was passed overwhelmingly by the voters in 1990 providing for open meetings in the legislative branch of government.

The Attorney General's Office has consistently sought to safeguard Florida's pioneering Government-in-the-Sunshine laws. Our attorneys have worked, both in the courtroom and out, to halt public records violations. In 1991, a decision by the Florida Supreme Court raised questions which made it clear that the best way to ensure the public's right of access to all three branches of government was to secure that right through the Florida Constitution. The Attorney General's Office then drafted a definitive constitutional amendment, which guaranteed continued openness in the state's government and reaffirmed the application of open government to the legislative branch and expanded it to the judiciary. This amendment passed in 1992.

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Florida Toll Free Numbers:

- Fraud Hotline 1-866-966-7226
- Lemon Law 1-800-321-5366





Select Year:  

## The 2012 Florida Statutes

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[Title XIX](#)[Chapter 286](#)[View Entire Chapter](#)

## PUBLIC BUSINESS PUBLIC BUSINESS: MISCELLANEOUS PROVISIONS

**286.011 Public meetings and records; public inspection; criminal and civil penalties. –**

(1) All meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, except as otherwise provided in the Constitution, including meetings with or attended by any person elected to such board or commission, but who has not yet taken office, at which official acts are to be taken are declared to be public meetings open to the public at all times, and no resolution, rule, or formal action shall be considered binding except as taken or made at such meeting. The board or commission must provide reasonable notice of all such meetings.

(2) The minutes of a meeting of any such board or commission of any such state agency or authority shall be promptly recorded, and such records shall be open to public inspection. The circuit courts of this state shall have jurisdiction to issue injunctions to enforce the purposes of this section upon application by any citizen of this state.

(3)(a) Any public officer who violates any provision of this section is guilty of a noncriminal infraction, punishable by fine not exceeding \$500.

(b) Any person who is a member of a board or commission or of any state agency or authority of any county, municipal corporation, or political subdivision who knowingly violates the provisions of this section by attending a meeting not held in accordance with the provisions hereof is guilty of a misdemeanor of the second degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

(c) Conduct which occurs outside the state which would constitute a knowing violation of this section is a misdemeanor of the second degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

(4) Whenever an action has been filed against any board or commission of any state agency or authority or any agency or authority of any county, municipal corporation, or political subdivision to enforce the provisions of this section or to invalidate the actions of any such board, commission, agency, or authority, which action was taken in violation of this section, and the court determines that the defendant or defendants to such action acted in violation of this section, the court shall assess a reasonable attorney's fee against such agency, and may assess a reasonable attorney's fee against the individual filing such an action if the court finds it was filed in bad faith or was frivolous. Any fees so assessed may be assessed against the individual member or members of such board or commission; provided, that in any case where the board or commission seeks the advice of its attorney and such advice is followed, no such fees shall be assessed against the individual member or members of the board or commission. However, this subsection shall not apply to a state attorney or his or her duly authorized assistants or any officer charged with enforcing the provisions of this section.

(5) Whenever any board or commission of any state agency or authority or any agency or authority of any county, municipal corporation, or political subdivision appeals any court order which has found said board, commission, agency, or authority to have violated this section, and such order is affirmed, the



court shall assess a reasonable attorney's fee for the appeal against such board, commission, agency, or authority. Any fees so assessed may be assessed against the individual member or members of such board or commission; provided, that in any case where the board or commission seeks the advice of its attorney and such advice is followed, no such fees shall be assessed against the individual member or members of the board or commission.

(6) All persons subject to subsection (1) are prohibited from holding meetings at any facility or location which discriminates on the basis of sex, age, race, creed, color, origin, or economic status or which operates in such a manner as to unreasonably restrict public access to such a facility.

(7) Whenever any member of any board or commission of any state agency or authority or any agency or authority of any county, municipal corporation, or political subdivision is charged with a violation of this section and is subsequently acquitted, the board or commission is authorized to reimburse said member for any portion of his or her reasonable attorney's fees.

(8) Notwithstanding the provisions of subsection (1), any board or commission of any state agency or authority or any agency or authority of any county, municipal corporation, or political subdivision, and the chief administrative or executive officer of the governmental entity, may meet in private with the entity's attorney to discuss pending litigation to which the entity is presently a party before a court or administrative agency, provided that the following conditions are met:

(a) The entity's attorney shall advise the entity at a public meeting that he or she desires advice concerning the litigation.

(b) The subject matter of the meeting shall be confined to settlement negotiations or strategy sessions related to litigation expenditures.

(c) The entire session shall be recorded by a certified court reporter. The reporter shall record the times of commencement and termination of the session, all discussion and proceedings, the names of all persons present at any time, and the names of all persons speaking. No portion of the session shall be off the record. The court reporter's notes shall be fully transcribed and filed with the entity's clerk within a reasonable time after the meeting.

(d) The entity shall give reasonable public notice of the time and date of the attorney-client session and the names of persons who will be attending the session. The session shall commence at an open meeting at which the persons chairing the meeting shall announce the commencement and estimated length of the attorney-client session and the names of the persons attending. At the conclusion of the attorney-client session, the meeting shall be reopened, and the person chairing the meeting shall announce the termination of the session.

(e) The transcript shall be made part of the public record upon conclusion of the litigation.

**History.**—s. 1, ch. 67-356; s. 159, ch. 71-136; s. 1, ch. 78-365; s. 6, ch. 85-301; s. 33, ch. 91-224; s. 1, ch. 93-232; s. 210, ch. 95-148; s. 1, ch. 95-353; s. 2, ch. 2012-25.



Select Year:  

## The 2019 Florida Statutes

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[Title XI](#)  
COUNTY ORGANIZATION AND  
INTERGOVERNMENTAL RELATIONS

[Chapter 163](#)  
INTERGOVERNMENTAL  
PROGRAMS

[View Entire  
Chapter](#)

**163.3194 Legal status of comprehensive plan. –**

(1)(a) After a comprehensive plan, or element or portion thereof, has been adopted in conformity with this act, all development undertaken by, and all actions taken in regard to development orders by, governmental agencies in regard to land covered by such plan or element shall be consistent with such plan or element as adopted.

(b) All land development regulations enacted or amended shall be consistent with the adopted comprehensive plan, or element or portion thereof, and any land development regulations existing at the time of adoption which are not consistent with the adopted comprehensive plan, or element or portion thereof, shall be amended so as to be consistent. If a local government allows an existing land development regulation which is inconsistent with the most recently adopted comprehensive plan, or element or portion thereof, to remain in effect, the local government shall adopt a schedule for bringing the land development regulation into conformity with the provisions of the most recently adopted comprehensive plan, or element or portion thereof. During the interim period when the provisions of the most recently adopted comprehensive plan, or element or portion thereof, and the land development regulations are inconsistent, the provisions of the most recently adopted comprehensive plan, or element or portion thereof, shall govern any action taken in regard to an application for a development order.

(2) After a comprehensive plan for the area, or element or portion thereof, is adopted by the governing body, no land development regulation, land development code, or amendment thereto shall be adopted by the governing body until such regulation, code, or amendment has been referred either to the local planning agency or to a separate land development regulation commission created pursuant to local ordinance, or to both, for review and recommendation as to the relationship of such proposal to the adopted comprehensive plan, or element or portion thereof. Said recommendation shall be made within a reasonable time, but no later than within 2 months after the time of reference. If a recommendation is not made within the time provided, then the governing body may act on the adoption.

(3)(a) A development order or land development regulation shall be consistent with the comprehensive plan if the land uses, densities or intensities, and other aspects of development permitted by such order or regulation are compatible with and further the objectives, policies, land uses, and densities or intensities in the comprehensive plan and if it meets all other criteria enumerated by the local government.

(b) A development approved or undertaken by a local government shall be consistent with the comprehensive plan if the land uses, densities or intensities, capacity or size, timing, and other aspects of the development are compatible with and further the objectives, policies, land uses, and densities or

intensities in the comprehensive plan and if it meets all other criteria enumerated by the local government.

(4)(a) A court, in reviewing local governmental action or development regulations under this act, may consider, among other things, the reasonableness of the comprehensive plan, or element or elements thereof, relating to the issue justiciably raised or the appropriateness and completeness of the comprehensive plan, or element or elements thereof, in relation to the governmental action or development regulation under consideration. The court may consider the relationship of the comprehensive plan, or element or elements thereof, to the governmental action taken or the development regulation involved in litigation, but private property shall not be taken without due process of law and the payment of just compensation.

(b) It is the intent of this act that the comprehensive plan set general guidelines and principles concerning its purposes and contents and that this act shall be construed broadly to accomplish its stated purposes and objectives.

(5) The tax-exempt status of lands classified as agricultural under s. [193.461](#) shall not be affected by any comprehensive plan adopted under this act as long as the land meets the criteria set forth in s. [193.461](#).

(6) If a proposed solid waste management facility is permitted by the Department of Environmental Protection to receive materials from the construction or demolition of a road or other transportation facility, a local government may not deny an application for a development approval for a requested land use that would accommodate such a facility, provided the local government previously approved a land use classification change to a local comprehensive plan or approved a rezoning to a category allowing such land use on the parcel, and the requested land use was disclosed during the previous comprehensive plan or rezoning hearing as being an express purpose of the land use changes.

**History.**—s. 12, ch. 75-257; s. 1, ch. 77-174; s. 2, ch. 77-223; s. 12, ch. 80-358; s. 69, ch. 81-259; s. 11, ch. 85-55; s. 33, ch. 2002-296.



## RobertsRules.org | Robert's Rules of Order - Summary Version

### For Fair and Orderly Meetings & Conventions

Robert's Rules, [full text](#) (1915 version)

[Introduction to Robert's Rules](#)

[Quick Chart of Motions](#)

[Chart of Motions in Arabic](#)

Provides common rules and procedures for deliberation and debate in order to place the whole membership on the same footing and speaking the same language. The conduct of ALL business is controlled by the general will of the whole membership - the right of the deliberate majority to decide. Complementary is the right of at least a strong minority to require the majority to be deliberate - to act according to its considered judgment AFTER a full and fair "working through" of the issues involved. Robert's Rules provides for constructive and democratic meetings, to help, not hinder, the business of the assembly. Under no circumstances should "undue strictness" be allowed to intimidate members or limit full participation.

The fundamental right of deliberative assemblies require all questions to be thoroughly discussed before taking action!

The assembly rules - they have the final say on everything!  
Silence means consent!

- Obtain the floor (the right to speak) by being the first to stand when the person speaking has finished; state Mr./Madam Chairman. Raising your hand means nothing, and standing while another has the floor is out of order! Must be recognized by the Chair before speaking!
- Debate can not begin until the Chair has stated the motion or resolution and asked "are you ready for the question?" If no one rises, the chair calls for the vote!
- Before the motion is stated by the Chair (the question) members may suggest modification of the motion; the mover can modify as he pleases, or even withdraw the motion without consent of the seconder; if mover modifies, the seconder can withdraw the second.
- The "immediately pending question" is the last question stated by the Chair! Motion/Resolution - Amendment - Motion to Postpone
- The member moving the "immediately pending question" is entitled to preference to the floor!
- No member can speak twice to the same issue until everyone else wishing to speak has spoken to it once!
- All remarks must be directed to the Chair. Remarks must be courteous in language and deportment - avoid all personalities, never allude to others by name or to motives!
- The agenda and all committee reports are merely recommendations! When presented to the assembly and the question is stated, debate begins and changes occur!

## The Rules

- **Point of Privilege:** Pertains to noise, personal comfort, etc. - may interrupt only if necessary!



- **Parliamentary Inquiry:** Inquire as to the correct motion - to accomplish a desired result, or raise a point of order
- **Point of Information:** Generally applies to information desired from the speaker: "I should like to ask the (speaker) a question."
- **Orders of the Day (Agenda):** A call to adhere to the agenda (a deviation from the agenda requires Suspending the Rules)
- **Point of Order:** Infraction of the rules, or improper decorum in speaking. Must be raised immediately after the error is made
- **Main Motion:** Brings new business (the next item on the agenda) before the assembly
- **Divide the Question:** Divides a motion into two or more separate motions (must be able to stand on their own)
- **Consider by Paragraph:** Adoption of paper is held until all paragraphs are debated and amended and entire paper is satisfactory; after all paragraphs are considered, the entire paper is then open to amendment, and paragraphs may be further amended. Any Preamble can not be considered until debate on the body of the paper has ceased.
- **Amend:** Inserting or striking out words or paragraphs, or substituting whole paragraphs or resolutions
- **Withdraw/Modify Motion:** Applies only after question is stated; mover can accept an amendment without obtaining the floor
- **Commit /Refer/Recommit to Committee:** State the committee to receive the question or resolution; if no committee exists include size of committee desired and method of selecting the members (election or appointment).
- **Extend Debate:** Applies only to the immediately pending question; extends until a certain time or for a certain period of time
- **Limit Debate:** Closing debate at a certain time, or limiting to a certain period of time
- **Postpone to a Certain Time:** State the time the motion or agenda item will be resumed
- **Object to Consideration:** Objection must be stated before discussion or another motion is stated
- **Lay on the Table:** Temporarily suspends further consideration/action on pending question; may be made after motion to close debate has carried or is pending
- **Take from the Table:** Resumes consideration of item previously "laid on the table" - state the motion to take from the table
- **Reconsider:** Can be made only by one on the prevailing side who has changed position or view
- **Postpone Indefinitely:** Kills the question/resolution for this session - exception: the motion to reconsider can be made this session
- **Previous Question:** Closes debate if successful - may be moved to "**Close Debate**" if preferred
- **Informal Consideration:** Move that the assembly go into "**Committee of the Whole**" - informal debate as if in committee; this committee may limit number or length of speeches or close debate by other means by a 2/3 vote. All votes, however, are formal.
- **Appeal Decision of the Chair:** Appeal for the assembly to decide - must be made before other business is resumed; NOT debatable if relates to decorum, violation of rules or order of business
- **Suspend the Rules:** Allows a violation of the assembly's own rules (except Constitution); the object of the suspension must be specified

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## Sec. 2-281. - Application.

Except as otherwise provided in this Code and in the land development regulations and excepting the city commission, this division shall be designated as the uniform procedures for the city's advisory boards, including those boards designated as commissions.

(Code 1986, § 11.01)

## Sec. 2-282. - Appointment; tenure.

All persons who desire to serve on an advisory board shall be city residents, except as provided in section 46-62 of this Code or as otherwise provided by law. All such persons shall submit a resume to the city commission as part of their application. All advisory board members serve at the pleasure of the city commission and may be removed by majority vote of its full membership, notwithstanding that they were appointed for a specific term. No member derives any property rights in his appointed position.

(Code 1986, § 11.08; Ord. No. 03-20, § 1, 8-5-2003)

## Sec. 2-283. - Officers.

From among its members the advisory board shall elect a chairperson and such other officers as it deems necessary.

(Code 1986, § 11.02)

## Sec. 2-284. - Quorum; procedures.

The next whole number of members above 50 percent of the advisory board members shall constitute a quorum. Each advisory board shall adopt procedures for the conduct of its meetings.

(Code 1986, § 11.05)

## Sec. 2-285. - Regular meetings.

The advisory board shall convene on a regularly scheduled basis at least once each month, and notice of such meeting shall be published in a newspaper of general circulation in the city at least five days in advance thereof. At any special or regular meeting the advisory board may set a future meeting date.

(Code 1986, § 11.03)

Sec. 2-286. - Absences.

If a member of an advisory board is absent from three consecutive regular meetings or is absent from more than one-half of the regularly scheduled meetings during any six-month period, without prior approval of the chairperson, the advisory board shall declare the member's office vacant. The advisory board shall certify the vacancy to the city commission. The chairperson shall give approval for absence for reasons of personal illness, family illness and death in the family, and may approve an absence for such other reason as the chairperson deems reasonable.

(Code 1986, § 11.09)

Sec. 2-287. - Special meetings.

Special meetings of an advisory board may be called by the chairperson or by written notice of three voting members. Reasonable notice of a special meeting shall be conspicuously posted; notice of a special meeting shall be published in a newspaper of general circulation in the city in all instances when time allows.

(Code 1986, § 11.04)

Sec. 2-288. - Open meetings.

Minutes shall be kept of all meetings of an advisory board. All such meetings shall be open to the public, and an agenda for each meeting shall be available to the public at city hall 48 hours in advance thereof; provided, however, that agendas for special meetings shall be available to the public either 48 hours before the special meeting or as soon before the meeting as practicable.

(Code 1986, § 11.06)

**State Law reference**— Open meetings law, F.S. § 286.011.

Sec. 2-289. - Conflict of interest.

- (a) All advisory board members are subject to the conflict of interest provisions of F.S. ch. 112. Board members with an actual conflict of interest in a particular agenda item shall not vote or in any way participate in the item. Accordingly, when a board

member who has declared a conflict of interest is either the applicant or a representative of the applicant of the particular agenda item, that board member must remove himself from the dais during the discussion of the item.

- (b) Advisory board members shall refrain from using their official positions as board members to solicit or obtain business for personal remuneration. No board member shall use information not available to the general public and gained because of his official position for his personal gain or benefit or for the personal gain or benefit of any other person or business entity.
- (c) When considering an appointment or reappointment to an advisory board, the city commission shall consider the applicant's record of conflicts of interest.

(Code 1986, § 11.07)

**State Law reference**— Conflicts of interest, F.S. § 112.311 et seq.

Secs. 2-290—2-315. - Reserved.

# FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE
MAILING ADDRESS	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:
CITY COUNTY	<input type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
DATE ON WHICH VOTE OCCURRED	NAME OF POLITICAL SUBDIVISION:
	MY POSITION IS: <input type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE

## WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

## INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

\* \* \* \* \*

### ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

\* \* \* \* \*

### APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

**APPOINTED OFFICERS (continued)**

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

**IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:**

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

**DISCLOSURE OF LOCAL OFFICER'S INTEREST**

I, \_\_\_\_\_, hereby disclose that on \_\_\_\_\_, 20 \_\_\_\_ :

(a) A measure came or will come before my agency which (check one or more)

- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, \_\_\_\_\_ ;
- inured to the special gain or loss of my relative, \_\_\_\_\_ ;
- inured to the special gain or loss of \_\_\_\_\_, by whom I am retained; or
- inured to the special gain or loss of \_\_\_\_\_, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

\_\_\_\_\_  
Date Filed

\_\_\_\_\_  
Signature

**NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.**



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## APPENDIX

This appendix does not contain the complete text of Chapter 119, Florida Statutes, but rather selected portions that are referenced within this Guide. Please refer to the Florida Statutes for the complete text of Chapter 119, Florida Statutes. A more complete listing of exemptions is also contained in the Government in the Sunshine Manual.

### **119.01 General state policy on public records.—**

(1) It is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.

(2)(a) Automation of public records must not erode the right of access to those records. As each agency increases its use of and dependence on electronic recordkeeping, each agency must provide reasonable public access to records electronically maintained and must ensure that exempt or confidential records are not disclosed except as otherwise permitted by law.

(b) When designing or acquiring an electronic recordkeeping system, an agency must consider whether such system is capable of providing data in some common format such as, but not limited to, the American Standard Code for Information Interchange.

(c) An agency may not enter into a contract for the creation or maintenance of a public records database if that contract impairs the ability of the public to inspect or copy the public records of the agency, including public records that are on line or stored in an electronic recordkeeping system used by the agency.

(d) Subject to the restrictions of copyright and trade secret laws and public records exemptions, agency use of proprietary software must not diminish the right of the public to inspect and copy a public record.

(e) Providing access to public records by remote electronic means is an additional method of access that agencies should strive to provide to the extent feasible. If an agency provides access to public records by remote electronic means,

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such access should be provided in the most cost-effective and efficient manner available to the agency providing the information.

(f) Each agency that maintains a public record in an electronic recordkeeping system shall provide to any person, pursuant to this chapter, a copy of any public record in that system which is not exempted by law from public disclosure. An agency must provide a copy of the record in the medium requested if the agency maintains the record in that medium, and the agency may charge a fee in accordance with this chapter. For the purpose of satisfying a public records request, the fee to be charged by an agency if it elects to provide a copy of a public record in a medium not routinely used by the agency, or if it elects to compile information not routinely developed or maintained by the agency or that requires a substantial amount of manipulation or programming, must be in accordance with s. 119.07(4).

(3) If public funds are expended by an agency in payment of dues or membership contributions for any person, corporation, foundation, trust, association, group, or other organization, all the financial, business, and membership records of that person, corporation, foundation, trust, association, group, or other organization which pertain to the public agency are public records and subject to the provisions of s. 119.07.

**119.011 Definitions.—As used in this chapter, the term:**

(1) “Actual cost of duplication” means the cost of the material and supplies used to duplicate the public record, but does not include labor cost or overhead cost associated with such duplication.

(2) “Agency” means any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.

## CONDUCT OF PUBLIC HEARINGS

### SECTION 1. Intent.

The intent of this article is to establish procedures to ensure procedural due process and maintain citizen access to the local government decision-making process relating to the approval of development orders.

### SECTION 2. Applicability.

Except as may otherwise be provided by statute or ordinance, these procedures shall apply to all quasi-judicial proceedings before the board.

### SECTION 3. Definitions.

- (a) *Applicant* shall mean the owner of record, the owner's agent, or any person with a legal or equitable interest in the property which is subject to the proceeding.
- (b) *Board* shall mean the Planning Board.
- (c) *Expert* shall mean a person who is qualified in a subject matter by knowledge, skill, experience, training, or education. Participants may qualify as experts under certain circumstances in accordance with the Florida Evidence Code.
- (d) *Participants* shall mean members of the general public, including representatives of units of local governments and governmental agencies, but excluding the applicant and persons qualified as experts, who offer unsworn testimony at a quasi-judicial hearing for the purpose of being heard on an application.
- (e) *Party* shall mean the applicant and the City of Key West.
- (f) *Quasi-judicial proceeding* shall mean a hearing held by the board to adjudicate the private rights of an applicant by means of a hearing which comports with due process requirements.
- (g) *Staff* shall mean City of Key West staff members charged with the responsibility of reviewing the application or enforcing the board's decision on the application for development orders and development permits.
- (h) *Witness* shall mean any person who testifies under oath.

**SECTION 4. General Provisions.**

- (a) Quasi-judicial proceedings shall be conducted in an informal manner.
- (b) The Applicant and the City of Key West shall have the right to call and examine witnesses, to introduce exhibits, to cross examine opposing witnesses on any relevant matter, and to rebut evidence.
- (c) Staff shall have the responsibility of presenting the case on behalf of the City of Key West.
- (d) Notice and scheduling requirements for quasi-judicial hearings held before the board shall be provided in accordance with applicable state law and City ordinances.
- (e) Official file.
  - (1) All written and electronic communication received by Planning Board members or staff concerning an application, any petitions or other submissions from the public, and all other documents pertaining to the application shall be kept in the official file maintained by staff.
  - (2) The official file will be made available for public inspection upon request at any time during normal business hours.
  - (3) The staff report on the application shall be sent to the board and shall be made a part of the agenda back-up and the official file.
- (f) Time limits for presentations. At the discretion of the Chair, time limits may be changed for any particular hearing.
  - (1) Staff: Up to ~~thirty (30)~~ fifteen (15) minutes.
  - (2) Applicant: Up to ~~thirty (30)~~ fifteen (15) minutes
  - (3) Participants:
    - a. Members of the public: Up to three (3) minutes each
    - b. Speakers representing an organization or a group in attendance at the meeting: Up to five (5) minutes each
  - (4) Expert witnesses: Up to ten (10) minutes

- (5) No speaker may give his or her time to any other speaker; however, at the discretion of the Chair the time allowed for any testimony may be extended.

**SECTION 5. Order of the proceeding.**

To the extent possible, the following shall be the order of the proceeding:

- (a) A preliminary statement shall be read once at the beginning of the quasi-judicial hearing portion of the agenda outlining the procedure which shall be followed.
- (b) The applicant, staff, and all witnesses requesting to speak shall be collectively sworn excluding attorneys licensed to practice law in the State of Florida, unless they intend to present testimony. Participants requesting to speak will not be required, but may, at their option, be sworn as witnesses, and will not be required to be qualified as expert witnesses. Participants who are not sworn will not be subject to cross-examination. The board shall not assign unsworn testimony the same weight or credibility as sworn testimony in its deliberations.
- (c) Staff shall present a brief synopsis of the nature of the application, introduce any additional exhibits which are not already included in the agenda back-up, summarize issues and make a recommendation.
- (d) The applicant shall make his or her presentation, including any witnesses the applicant may wish to call.
- (e) Participants in support of the application shall make their presentation. Participants claiming to represent a group, organization, unit of local government or governmental agency must indicate the participant's authority to act as a representative for the group, organization or agency.
- (f) The presentation of the case in chief for the application will then be considered closed, except for rebuttal as hereinafter provided.
- (g) Participants in opposition to the application shall make their presentation.
- (h) The presentation of the case in opposition to the application will then be considered closed, except for rebuttal as hereinafter provided.
- (i) After each person testifies and/or documents are made part of the record, the applicant, staff or any Planning Board member may cross-

examine the witness, except that participants providing unsworn testimony may only be cross-examined by the board.

- (j) Rebuttal by staff, if requested.
- (k) Rebuttal by applicant, if requested. At this time the applicant may only rebut statements made by the participants and/or staff in opposition to the application.
- (l) The chair may choose to allow participants to respond to the applicant's rebuttal if the chair deems the response to be necessary to ensure fairness and due process. The response must be limited to issues addressed in the applicant's rebuttal. No new issues may be raised at this time.
- (m) The chair, in the interest of fairness and due process, may allow further responses, but the responses must be limited to issues addressed by the previous speaker. No new issues may be raised at this time.
- (n) No further evidence will be accepted.
- (o) Final argument by applicant and then staff. In final argument, the applicant and staff may refer only to facts which were admitted into evidence. Argument that refers to facts not in evidence will be disregarded by the board.
- (p) At the discretion of the board, the applicant may be permitted to respond to final staff recommendations.
- (q) Board shall deliberate on the application. No further presentations or testimony shall be permitted, and Planning Board members shall not ask further questions of persons presenting testimony. The board shall discuss the evidence which was presented at the quasi-judicial hearing and vote on the application. Although the board shall not be required to make findings of fact and conclusions of law, the board must ensure that there is competent substantial evidence in the record to support its decision.

#### **SECTION 6. Cross-examination.**

- (a) Only the applicant, staff and the board shall be entitled to conduct cross-examination when sworn testimony is given or documents are made a part of the record. Only the board shall be entitled to conduct cross-examination of participants providing unsworn testimony. The board shall not assign



unsworn testimony the same weight or credibility as sworn testimony in its deliberations.

- (b) The applicant, staff and all witnesses providing sworn testimony are subject to cross-examination during the hearing.
- (c) Participants, who choose not to be sworn as witnesses, shall not be subject to cross-examination, except from the board as stated in subsection (a) above.
- (d) A participant or a witness may not question any person. However, a participant or a witness may request that the board ask questions of a witness. The board may or may not choose to ask the witness any questions requested by a participant.
- (e) The scope of the cross-examination shall be limited to the facts alleged by the applicant, staff or witnesses in relation to the application.
- (f) The chair of the board may direct the party conducting the cross-examination to stop a particular line of questioning that merely harasses, intimidates or embarrasses the individual being cross-examined.
- (g) The chair of the board may direct the party conducting the cross-examination to stop a particular line of questioning that is not relevant and that is beyond the scope of the facts alleged by the individual being cross-examined.
- (h) If the party conducting the cross-examination continuously violates directions from the chair to end a line of questioning deemed irrelevant and merely designed to harass, intimidate or embarrass the individual, the chair may terminate the cross-examination.

Sec. 90-66. - Updates and other revision to rules of procedure.

From time to time, and by October 1 of each year, the planning board shall recommend to the city commission regulations for the conduct of its business, which recommendation shall govern the planning board upon approval or amendment by the city commission or upon the expiration of 45 days without final city commission action thereon. The rules are at all times subject to amendment by the city commission.

(Ord. No. 97-10, § 1(1-2.4(G)(9)), 7-3-1997)

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