



Commission Agenda Item

MEETING DATE: October 7, 2013

SUBJECT: Compliance with Senate Bill 50 / Florida Statute 286.0114

AGENDA SECTION: Agenda

DEPARTMENT: Executive

PREPARED BY: Marian B. Rush, City Attorney

RECOMMENDED ACTION: Amend the Commissioners Rules of Procedure as set forth below and reflected in the changes in the attached copy of the Rules and adopt Rules for Public Comment for all City of Alachua Board Meetings to be used at all of the City's public board meetings in order to comply with Senate Bill 50 / Florida Statute 286.0114

Summary

During the 2013 legislative session Senate Bill 50, which deals with the "opportunity to be heard on a proposition before a board or commission meeting" was passed and is codified in F.S.S. 286.0114. It was subsequently signed into law and became effective as of October 1, 2013. The City of Alachua already has in place "Commissioners Rules of Procedure" which allow citizens three minutes to comment on the subject of choice at two separate times during a commission meeting. However, the new law contains some additional requirements and applies to all City board meetings along with commission meetings.

The new law does not define "proposition". Black's Law Dictionary defines proposition by way of a motion in Parliamentary law as, "A proposal made in a meeting, in a form suitable for its consideration and action that the meeting (or the organization for which the meeting is acting) take a certain action or view. (See attached definitions of "proposition" and "motion").

Revisions to Commissions Rules of Procedure are as follows:

(First Proposed Revision)

On page 6, at the end of the first paragraph under Rule 9 add the following language: "as follows:"

(Second proposed Revision)

On page 7, insert a new paragraph (g) that should state, "Make sure that the public is given a reasonable opportunity to be heard on a proposition before the City Commission as provided for under Florida Statute 286.0114. Each Individual shall be allotted three (3) minutes to address the Commission, in the manner described in Rule 21(e) below, unless otherwise provided for by law or regulation. If groups or factions of a group wish to have their opinion on a proposition to be expressed to the Commission by a representative, a paper containing the names of the individuals, groups or factions, the name of the representative and the proposition they wish the representative to address shall be provided to the Deputy City Clerk's representative PRIOR to the beginning of the meeting. When the proposition is opened up for public comment, the representative shall advise the Commission of the names of the groups or factions whose opinions are being expressed by the representative. The representative shall be allotted fifteen (15) minutes for the presentation, unless otherwise provided for by law or regulation. The City of Alachua does not require an individual to provide advanced notification orally or in writing in order to express a desire to address a proposition before the City Commission, including, but not limited to, voicing their support, opposition or neutrality on a proposition. Nothing in this paragraph shall preclude the City Commission from maintaining orderly conduct and proper decorum in a public meeting.

(Third proposed revision)

Add a new paragraph (h) that should state, "The reasonable opportunity to be heard on a proposition before the Commission does not apply to:

- a) An official act that must be taken to deal with an emergency situation affecting the public health, welfare, or safety, if compliance with the requirements would cause an unreasonable delay in the ability of the Commission to act;
- b) An official act involving no more than a ministerial act, including, but not limited to, approval of minutes and ceremonial proclamations;
- c) A meeting that is exempt from the public by Florida Statute 286.011; or
- d) A meeting during which the Commission is acting in a quasi-judicial capacity. This paragraph does not affect the right of a person to be heard as otherwise provided by law.

The existing paragraph (g) will become a new paragraph (i).

Rules for Public Comment on Propositions during Alachua Board Meetings

The City Commission of the City of Alachua recognizes the importance of protecting the right of individuals to express opinions on matters being considered at public meetings being conducted by various boards appointed by the Commission. The City of Alachua liberally allows public comment at its various Board meetings. However, in order to insure that the City and its Boards comply with Florida Statute 286.0114, the City Commission of Alachua hereby directs its Boards to utilize the following rules in order to allow the public a reasonable opportunity to be heard on a proposition before the Board:

- 1. The Presiding Officer of the meeting shall allot three (3) minutes to each person who wishes to address a proposition being considered by the board. The individual shall address the Presiding Officer and all questions shall be facilitated through the Presiding Officer. The individual cannot yield time to another individual;
- 2. If groups or factions wish to have their opinion on a proposition expressed to the Board by a representative, a paper containing the names of the individuals, groups, or factions, the name of the representative to speak on their behalf, and the proposition they wish the representative to address shall be provided to City Staff PRIOR to the beginning of the Board meeting. When the proposition is opened up for public comment, the representative shall advise the Board of the names of the groups or factions whose opinions are being provided by the representative. The representative shall then be allotted fifteen (15) minutes for the presentation, unless otherwise provided for by law or regulation;
- 3. The City of Alachua does not require an individual to provide advanced notification orally or in writing in order to express a desire to address a proposition before any Board, including, but not limited to, voicing their support, opposition or neutrality on a proposition;
- 4. The reasonable opportunity to be heard on a proposition before a Board does not apply to:
 - a. An official act that must be taken to deal with an emergency situation affecting the public health, welfare, or safety, if compliance with the requirements would cause an unreasonable delay in the ability of the board to act;
 - b. An official act involving no more than a ministerial act, including, but not limited to, approval of minutes and ceremonial proclamations;
 - c. A meeting that is exempt from the public by Florida Statute 286.011; or
 - d. A meeting during which the board is acting in a quasi-judicial capacity. This paragraph does not affect the right of a person to be heard as otherwise provided by law.
- 5. Nothing in these rules shall preclude any Board from maintaining orderly conduct and proper decorum in a public meeting; and
- 6. Each Board shall allow a specified time for public comment at the end of each meeting.

ATTACHMENTS: Amendment to Commissioners Rules of Procedure; Rules for Public Comment at all City of Alachua Board Meetings; Senate Bill 50/Florida Statute 286.0144; Definitions of "proposition" and "motion" from Black's Law Dictionary, Eighth Edition

REVIEWED BY CITY MANAGER:



CITY OF ALACHUA

COMMISSIONERS

RULES

OF

PROCEDURE

RULE #	TOPIC	PAGE
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SECTION I – GENERAL PROVISIONS

RULE 1	COMMISSION MEETINGS	3
RULE 2	REGULAR COMMISSION MEETINGS	4
RULE 3	SPECIAL COMMISSION MEETINGS	4
RULE 4	EMERGENCY COMMISSION MEETINGS	4
RULE 5	COMMISSION - WORKSHOPS	5
RULE 6	QUORUM	5
RULE 7	ELECTION OF VICE-MAYOR	6
RULE 8	NEW COMMISSIONERS	6
RULE 9	PRESIDING OFFICER	6
RULE 10	RULES OF ORDER	7
RULE 11	CLERK OF THE COMMISSION; PARLIAMENTARIAN; MINUTES	7
RULE 12	APPEARANCE BEFORE THE COMMISSION	8
RULE 13	SERGEANT - AT - ARMS	9
RULE 14	REQUIRED ATTENDANCE OF OFFICIALS	9
RULE 15	PUBLIC RECORDS	9
RULE 16	COMMISSION MAIL	9
RULE 17	SEATING ARRANGEMENT	10
RULE 18	PRESS CONFERENCES	10

SECTION II - PREPARATION OF AGENDA; ORDER OF BUSINESS

RULE 19	PREPARATION OF AGENDA	10
RULE 20	AGENDA MATERIAL	10
RULE 21	ORDER OF BUSINESS OF MEETING	10

SECTION III - COMMISSION PROCEDURES

RULE 22	PUBLIC HEARING	13
RULE 23	VOTING	14
RULE 24	RULES OF DEBATE	14
RULE 25	CONFLICT OF INTEREST	15
RULE 26	ORDINANCES	15
RULE 27	RESOLUTUIONS	15
RULE 28	MOTIONS	15
RULE 29	RECONSIDERATION	16
RULE 30	RESCINDING ACTION PREVIOUSLY TAKEN	16
RULE 31	COMMISSION APPOINTMENTS TO BOARDS & COMMITTEES	16
RULE 32	CITIZEN ADVISORY BOARDS/COMMITTEES	16
RULE 33	NON-AGENDA INQUIRIES AT COMMISSION MEETING	17
RULE 34	SUSPENSION AND CONSTRUCTION OF RULES	18

GUIDELINES FOR CITIZEN ADVISORY BOARDS/COMMITTEES

RULES OF CIVILITY

The City of Alachua encourages citizen participation in the democratic process and recognizes and protects the right of freedom of speech afforded to all. As the Commission conducts the business of the City, rules of civility shall apply. Commissioners, City officials and members of the public are to respectively communicate according to the Commissioners Rules of Procedure. Persons shall speak only when recognized by the Presiding Officer and, at that time, refrain from engaging in personal attacks and derogatory or offensive language. Comments from citizens being made at a time other than during the period titled, "Citizen Comments on Subject of Choice," should be focused on the issue at hand. Outbursts will not be tolerated and those who do not conduct themselves in a respectful and/or lawful manner shall be subject to removal as outlined in the Commissioners Rules of Procedure. It shall be the responsibility of each individual to demonstrate civility.

PREFACE

The City of Alachua conducts municipal government, performs municipal functions and renders municipal services and exercises any power for municipal purposes according to the City Charter, except as otherwise provided by law. Any conflict or need for clarification arising out of the following Rules of Procedure shall be resolved, where applicable, by provisions of the City Charter which shall prevail, except as otherwise provided by law. Any Amendments to the City Charter which may require revisions to the Rules of Procedure shall be administratively prepared by the City Manager/Clerk and adopted by the City Commission.

These Rules of Procedure are adopted by the City Commission to guide the Commission through its primary operations and functions. They are designed to provide the structure needed to conduct City business while also maintaining the flexibility needed to efficiently and effectively carry out the public business as circumstances may dictate.

SECTION I – GENERAL PROVISIONS

RULE 1: COMMISSION MEETINGS

All meetings of the City of Alachua Commission, and of committees thereof, shall be open to the public in accordance with the Florida Government in the Sunshine Law, Section 286.011, F.S.

- (a) The exception shall be those meetings statutorily exempt, such as executive collective bargaining sessions - Section 447.605(1), F.S.; meetings regarding risk management claims - Section 768.28(15), F.S.; and litigation meetings pursuant to Section 286.011(8) F.S. The Commission shall follow all statutory requirements for exempt meetings.
- (b) Because of the need to comply with seating capacity requirements of the fire code, there may be occasions when entrance by the public to the Commission Chambers or other meeting rooms shall be limited.
- (c) Regular meetings of the Commission will be conducted in a public building. If

possible special and emergency meetings will also be conducted in public buildings.

(d) For public safety purposes, no signs or placards mounted on sticks, posts, poles or similar structures will be allowed in City Commission meeting rooms. Other signs, placards, or banners shall not disrupt meetings or interfere with others' visual rights.

RULE 2: REGULAR COMMISSION MEETINGS

All regular meetings of the City of Alachua Commission will be conducted at 6:30 P.M. at the James A. Lewis Commission Chambers - City of Alachua, City Hall, 15100 NW 142nd Ter., Alachua, Florida; unless advertised otherwise. Regular Commission meetings are scheduled on the 2nd and 4th Monday of the month. The City Commission shall establish and publish, prior to January 1 each year, a schedule of regular meetings that are to be held throughout the calendar year.

From time-to-time, regular meetings may be adjusted by the Commission to accommodate a holiday schedule. Prior notice of such change shall be provided to the public, City Manager/Clerk and media.

RULE 3: SPECIAL COMMISSION MEETINGS

A special meeting may be called by the Mayor (also referred to as Presiding Officer), any two (2) Commissioners, or the City Manager/Clerk.

(a) The call for a special meeting shall be in writing and shall contain time, place and business to be conducted. The notice of special meeting shall be located at a designated area at City Hall. An agenda outlining the business to be conducted will be available prior to the meeting. No other business than that listed on the agenda shall be conducted. Special meetings may be held upon no less than six (6) hours public notice.

(b) Each Commissioner will be given written notice served personally or left at his/her usual place of business and/or residence or by other electronic means, including but not limited to e-mail. If this means of contact is not achieved, notice will be provided orally, either in person or by telephone contact.

(c) Special meetings may be scheduled on days or evenings in addition to the 2nd and 4th Monday of the month. Meeting times should preferably be in the evening hours of weekdays.

(d) There will not be a separate agenda item titled "Comments from Citizens on Subject of Choice". Citizens shall be allowed to comment on items listed on the agenda.

(e) If there is no longer a need for a special meeting, the entity that called the meeting is authorized to cancel such meeting.

RULE 4: EMERGENCY COMMISSION MEETINGS

An emergency meeting may be called orally or in writing by the Mayor, any two (2) Commissioners, or the City Manager/Clerk.

(a) The call for an emergency meeting if in writing shall contain the time, place, and business to be conducted. An agenda outlining the business to be conducted will be available prior to or at the meeting. No other business than that listed on the agenda shall be conducted. Emergency meetings may be held, when practicable, upon the most reasonable notice allowable under the circumstances.

(b) Each Commissioner, the City Manager/Clerk, the Alachua Police Department, and the City Attorney shall be given the most reasonable notice allowable under the circumstances. Such notice can be provided orally, in person or by telephone contact or by other electronic means, including but not limited to e-mail. If this means of contact is not achieved, a copy of the call for the emergency meeting may be delivered (which may be by facsimile transmission) to the person's residence, place of employment, or other location; whichever site is most likely to ensure the person's receipt of the notice.

(c) The most reasonable notice allowable under the circumstances of the emergency meeting shall be provided to the business office of each local media organization that has on file a written request for notice of emergency meetings. Such notice shall be provided by telephone call to the media organization's business office or by other electronic means, including but not limited to e-mail of a copy of the call for the emergency meeting to the media organization's business office.

(d) Emergency meetings may be scheduled on days or evenings in addition to the 2nd and 4th Monday of the month.

(e) There will not be a separate agenda item titled "Comments from Citizens on Subject of Choice". Citizens shall be allowed to comment on items listed on the agenda.

(f) If there is no longer a need for an emergency meeting, the entity that called the meeting is authorized to cancel such meeting.

RULE 5: COMMISSION – WORKSHOPS

(a) Workshops are conducted in the James A. Lewis Commission Chambers, unless advertised otherwise, and are scheduled as needed. Meeting times should preferably be in the evening hours of weekdays. The Commission may initiate workshops that are public meetings to improve communication, to gain information and to create a stronger working relationship among the elected officials of the general city government. Public attendance and participation is encouraged. No formal action will occur at workshops.

(b) A workshop may be called orally or in writing by the Mayor, any two (2) Commissioners, or the City Manager.

RULE 6: QUORUM

A quorum for the transaction of business by the Commission consists of three (3) Commissioners. Once a quorum has been established, a majority of Commissioners present at the meeting shall be required to carry a motion, unless by statute, ordinance or other regulation, an extraordinary majority (4/5ths) of the Commission is required for approval.

RULE 7: ELECTION OF VICE-MAYOR

The City Manager/Clerk shall preside over the election of the Vice-Mayor. Procedures for electing the Vice-Mayor are as follows:

(a) Election of the Vice-Mayor shall be done annually at the first (1st) City Commission meeting after the City Election. The Commission elects a Vice- Mayor from among its members. The City Manager/Clerk calls for nominations for a Vice-Mayor; nominations do not require a second. A roll-call vote is conducted by the City Manager/Clerk if there is more than one nomination.

(b) In case of the absence or temporary disability of the Mayor, the Vice- Mayor serves as Chair during the absence. In case of the absence or temporary disability of the Chair and the Vice-Chair, an Acting Chair, elected from members of the Commission, serves during the continuance of the absences or disabilities.

RULE 8: NEW COMMISSIONERS

The term of City Commissioners elected to office shall commence on the first (1st) Regular Commission meeting following the general election.

(a) A swearing-in ceremony for new commissioners will be coordinated by the City Manager/Clerk.

(b) The City Manager/Clerk shall provide an orientation program.

RULE 9: PRESIDING OFFICER

The Presiding Officer (i.e. Mayor) shall be responsible for enforcing the Rules of Procedure and conducting meetings in a manner which preserves order and decorum, prevents attacks on personalities or the impugning of members' motives, and confine debate or comments to the question under discussion. The Mayor shall endeavor to conduct the meetings in a fashion that draws a balance between the informality and congeniality possible in a small community while also maintaining the decorum and formality necessary to transact business in an orderly fashion as follows:-

(a) Open the meeting at the appointed time and call the meeting to order, having ascertained that a quorum is present;

(b) Announce the business to come before the Commission, in accordance with the prescribed order of business;

(c) Recognize all Commissioners who seek the floor under correct procedure. All questions and comments are to be directed through the Presiding Officer and restated by her/him, and she/he declares all votes;

(d) Preserve order and call to order any member of the Commission who violates any of these procedures; and, when presiding, decide questions of order, subject to a majority vote on a motion to appeal;

(e) Expedite business in every way compatible with the rights of members;

(f) Remain objective, consistent with Robert's Rules of Order. According to Robert's "Rule Against Chair's Participation in Debate," the presiding officer has - as an individual - the same rights in debate as any other member; but the impartiality required of the Chair in an assembly precludes exercising these rights while presiding. On certain occasions the presiding officer may believe that a crucial factor relating to such a question has been overlooked and that his/her obligation as a member to call attention to the point outweighs his/her duty to preside at that time. If the presiding officer wishes to place a motion, the gavel must be relinquished.

Based upon these Rules & Procedures, the gavel will be relinquished in the following order:

1. Vice Mayor;
2. Other Commissioners based upon seniority of tenure;
3. City Manager/Clerk;

The "Rule Against Chair's Participation in Debate" further states that the presiding officer who relinquished the chair should not return to it until the pending main question has been disposed of, since he/she has shown himself/herself to be partisan as far as that particular matter is concerned. Unless a presiding officer is extremely sparing in leaving the chair to take part in debate, he/she may destroy members' confidence in the impartiality of his/her approach to the task of presiding.

Once a motion has been made and second received, the Presiding Officer shall hear comments from the other members of the Commission. Following the comments from other members of the Commission, the Presiding Officer shall be permitted to provide her/his input on the motion.

(g) Make sure that the public is given a reasonable opportunity to be heard on a proposition before the City Commission as provided for under Florida Statute 286.0114. Each individual shall be allotted three (3) minutes to address the Commission, in the manner described in Rules 21(e) below, unless otherwise provided for by law or regulation. If groups or factions of a group wish to have their opinion on a proposition to be expressed to the Commission by a representative, a paper containing the names of the individuals, groups or factions, the name of the representative and the proposition they wish the representative to address shall be provided to the Deputy City Clerk's representative PRIOR to the beginning of the meeting. When the proposition is opened up for public comment, the representative shall advise the Commission of the names of the groups or factions whose opinions are being expressed by the representative. The representative shall be allotted fifteen (15) minutes for the presentation, unless otherwise provided for by law or regulation. The City of Alachua does not require an individual to provide advanced notification orally or in writing in order to express a desire to address a proposition before the City Commission, including, but not limited to, voicing their support, opposition or neutrality on a proposition. Nothing in this paragraph shall preclude the City Commission from maintaining orderly conduct and proper decorum in a public meeting.

(h) The reasonable opportunity to be heard on a proposition before the Commission does not apply to:

- a) An official act that must be taken to deal with an emergency situation affecting the public health, welfare, or safety, if compliance with the requirements would course an unreasonable delay in the ability of the Commission to act;

- b) An official act involving no more than a ministerial act, including, but not limited to, approval of minutes and ceremonial proclamations;
 - c) A meeting that is exempt from the public by Florida Statute 286.011; or
 - d) A meeting during which the Commission is acting in a quasi-judicial capacity.
- This paragraph does not affect the right of a person to be heard as otherwise provided by law.

~~(i)(g)~~ Declare the meeting adjourned when the Commission so votes, or at any time in the event of an emergency affecting the safety of those present;

RULE 10: RULES OF ORDER

Robert's Rules of Order, newly revised, so long as they do not conflict with ordinances, statutes, these rules or the City of Alachua Charter, may be used as a guide in conducting commission meetings.

RULE 11: CLERK OF THE COMMISSION; PARLIAMENTARIAN; MINUTES

The City Manager/Clerk, or her/his Deputy Clerk, serves as parliamentarian, and advises the Presiding Officer as to correct rules of procedure or questions of specific rule application. The parliamentarian calls to the attention of the Presiding Officer any error in the proceedings that may affect the substantive rights of any member, or may otherwise do harm.

- (a) The City Manager/Clerk or his/her designee shall be responsible for recording all Commission meetings and workshops and shall make correct minutes of the proceedings of each Commission meeting and workshop.
- (b) The City Manager/Clerk will place the minutes on the agenda for approval by the Commission. Such minutes stand confirmed at the regular Commission meeting without a reading in open meeting, unless some error is shown. In such event, an appropriate correction is made. A copy of the minutes shall be available for review in the City Manager's/Clerk's office.
- (c) Upon request, the City Manager/Clerk will provide any Commissioner with video/audio recordings of Commission meetings.

RULE 12: APPEARANCE BEFORE THE COMMISSION

The City Commission recognizes the importance of protecting the right of its citizens and taxpayers to express their opinions on the operation of City government and encourage citizen participation in the local government process. The City Commission also recognizes the necessity for conducting orderly and efficient meetings in order to complete City business in a timely and proper manner.

- (a) No citizen shall speak until duly recognized by the Presiding Officer, and she/he shall immediately cease speaking and relinquish the podium when requested by the Presiding Officer.

After being recognized, the person should:

step up to the speaker's podium and give her/his name;

state the topic or position (for/against) of the item under discussion;

unless further time is granted by the Commission and/or the Presiding Officer, limit the address to three minutes; and

address all remarks and questions to the Commission as a body, and not a member thereof, except through the Presiding Officer.

Employees of the City may address the Commission on matters of public concern. Employee comments that address an active grievance/arbitration, employee appeal matter (all of which are extensively covered in the Personnel Policies & Procedures and the collective bargaining agreement) or a personnel dispute will not be entertained as a part of Citizen Comments. Employees will be advised of the appropriate forum and process for presenting or discussing such matters.

(b) The Commission may discuss the matter, assign it to a committee, refer it to the City Manager/Clerk for review and comment, question the speaker and/or take other appropriate action.

(c) Speakers should make comments concise and to the point, and present any data or evidence they wish the Commission to consider. No person may speak more than once on the same subject unless granted permission by the Presiding Officer.

(d) No person other than a member of the Commission, and the person having the floor, may be permitted to enter into any discussion, either directly or through a member of the Commission, without permission of the Presiding Officer. No question may be asked except through the Presiding Officer.

(e) It shall be prohibited for any person to disturb or interrupt any meeting of the City Commission/Committees or otherwise fail to comport with the Rules and Procedure herein. The use of obscene or profane language, physical violence or the threat thereof, or other loud and boisterous behavior which the Presiding Officer or Commission shall determine is intended as a disruption of the meeting and a failure to comply with any lawful decision or order of the Presiding Officer or of the Commission, shall constitute a disturbance and that person is declared out-of-order, she/he should immediately relinquish the podium. If the person does not do so, she/he is subject to removal from the Commission Chambers or other meeting room and may be arrested by the Alachua Police Department, subject to Section 810.08(1), F.S.

(f) The Presiding Officer, subject to concurrence of the majority of the Commission, is authorized to establish speaker time limits and otherwise control presentations to avoid repetition.

RULE 13: SERGEANT-AT-ARMS

The City Manager/Clerk, or her/his designee, shall be sergeant-at-arms of the Commission meetings. The City Manager/Clerk shall carry out all orders and instructions given by the City Commission for the purpose of maintaining order and decorum at the Commission meeting.

RULE 14: REQUIRED ATTENDANCE OF OFFICIALS

In addition to Commissioners, City officials whose regular attendance shall be required at meetings of the Commission are the: City Manager/Clerk, City Attorney, or their designees. A representative of the Alachua Police Department's Office shall be present to provide security and assistance in maintaining order.

RULE 15: PUBLIC RECORDS

Requests for copies of public records regarding a meeting of the City Commission should be made through the City Manager's/Clerk's office. The cost shall be in accordance with the law.

RULE 16: COMMISSION MAIL

All mail addressed to the Mayor and any Commissioner shall be handled as follows:

- (a) All mail addressed to the Mayor or Commissioner will be opened by the public records custodian, or designee, and stamped with the date received on the front page and copied for public records review within 24 hours (weekdays) of receipt of the mail.
- (b) Each Commissioner will receive the original of items addressed to her/him without an official title unopened. If the addressee determines that the mail should be public record, he/she will provide a copy to the City Manager/Clerk for records retention purposes.
- (c) Magazines and other publications and lengthy agenda materials for other boards on which Commissioners serve will not be copied. Items of considerable length (such as petitions) will not be copied.
- (d) The Mayor and Commissioners who receive individually-addressed mail will be responsible for replying; asking the City Manager/Clerk to draft a response for their signature; or requesting that the item be placed on an agenda for formal Commission consideration. The City Manager/Clerk shall be responsible for ensuring that mail addressed to the Presiding Officer or the Commission is properly answered and/or placed in each Commissioner's box.
- (e) Each commissioner will be provided with a copy of the Mayor's mail. The originals with attachments will be provided to the Mayor.
- (f) The City Manager/Clerk may answer individual complaint mail.

RULE 17: SEATING ARRANGEMENT

Commissioners shall occupy respective seats in the Commission Chambers to be based on position (i.e. Vice-Mayor) and seniority.

RULE 18: PRESS CONFERENCES

Any and every press conference officially sponsored by the City of Alachua will be open to all media representatives and to the general public. Press conferences will be conducted in a

location that is publicly accessible. Press releases are to be issued by the City Manager or designee. It is the responsibility of the City Manager to keep the Commission apprised of such releases.

SECTION II - PREPARATION OF AGENDA; ORDER OF BUSINESS

RULE 19: PREPARATION OF AGENDA

The City Manager/Clerk is responsible for the preparation of the agenda. The Mayor, any Commissioner or other Constitutional Officer may place an item on the agenda. The City Manager/Clerk or City Attorney may also place an item on the agenda.

As a general practice, all supporting documentation must be provided to the City Manager/Clerk prior to agenda review or the item(s) may not be included on the agenda.

RULE 20: AGENDA MATERIAL

A copy of the agenda and supporting materials will be prepared for Commissioners, the public and the media by 5:00 PM on the Thursday prior to the regular Commission meeting or Public Hearing except when legally observed holidays or exigent circumstances delay copying and distribution. The agenda, as well as lengthy reports that are part of agenda documentation, shall be available for review in the City Manager's/Clerk's office.

RULE 21: ORDER OF BUSINESS OF MEETING

The business of all regular meetings of the Commission should be transacted as follows - provided, however that the Presiding Officer may, by simple majority vote or consensus of the Commission, re-arrange items on the agenda to more expeditiously conduct the business before the Commission:

(a) Call to Order

(b) Invocation and Pledge of Allegiance

The Commission may maintain a clergy rotational roster, which may be used to rotate among the local clergy the presentation of the invocation at the regular meetings. Members of the Commission may also be designated to present the invocation. The Presiding Officer shall lead the pledge or delegate to another party.

(c) Approval of the Regular and Consent Agendas

Except for items advertised for public hearings, items may be added to, or removed from, the agenda. Agenda items may be reordered. Authorization to advertise ordinances may be placed on the consent agenda.

A motion to approve the agenda will have the following effects:

1. Approves any amendments to the Regular and Consent Agenda;
2. Adopts the Regular Agenda; and
3. Approves all items on the Consent Agenda.

Prior to the vote on the motion to adopt the Agenda, the Presiding Officer shall inquire if any Commissioner wishes any other items to be withdrawn from the Consent Agenda. If any

matter is withdrawn by any member of the Commission, the Presiding Officer shall place the item at an appropriate place on the agenda for the current or a future meeting

(d) Special Presentations

Items under this section include Proclamations, Special Award Presentations, Scheduled Citizen or Group Presentations.

The number of proclamations read during the regular meeting may be limited. Those proclamations which are not scheduled for reading may be placed on the consent agenda for approval.

Any citizen may request that an item be placed on the agenda under this section. Those who wish to agenda an item should submit a written request (stating the general nature of the matter) to the City Manager/Clerk before the agenda packet deadline. (Currently the deadline is the Thursday following the previous City Commission Meeting.)

Scheduled presentations are a maximum of fifteen (15) minutes in length. The City Commission shall not take final action at the same meeting on items addressed under this section. Final action can only be taken if the City Commission waives its Rules of Procedure.

The City Manager/Clerk in consultation with the Chair shall decide whether an item shall be placed on the agenda.

(e) Comments From Citizens on Subject of Choice

Three (3) minutes will be allotted to each citizen who wishes to speak at this time. Any citizen who is unable to speak at the end of the meeting may do so during this period. Any citizen who chooses to comment during this period will not have the opportunity to speak again during the citizen comment period at the end of the meeting. A citizen cannot yield time to another citizen.

Any person may address the Commission under this agenda section as time allows. The City Commission shall not take final action at the same meeting on items addressed under this section. Final action can only be taken if the City Commission waives its Rules of Procedures.

Employees of the City may address the Commission on matters of public concern. Employee comments that address an active grievance/arbitration, employee appeal matter (all of which are extensively covered in the Personnel Policies & Procedures and the collective bargaining agreement) or a personnel dispute will not be entertained as a part of Citizen Comments. Employees will be advised of the appropriate forum and process for presenting or discussing such matters.

The Chair may assign issues that require additional examination to a Commission Committee. If assigned, the Committee will provide a report to the City Commission when the examination of the issue is complete.

- (f) Committee Reports/Committee Appointments/ City Announcements
- (g) Public Hearings and Ordinances
- (h) Agenda Items

Items in this section are reports or requests presented by the City Manager/Clerk for Mayor and City Commission consideration.

- (i) Comments From Citizens on Subject of Choice

Three (3) minutes will be allotted at the end of the meeting for individual citizen comments. Any citizen who did not speak during the first citizen comment period will have the opportunity to speak. A citizen cannot yield time to another citizen.

Any person may address the Commission under this agenda section as time allows. The City Commission shall not take final action at the same meeting on items addressed under this section. Final action can only be taken if the City Commission waives its Rules of Procedure.

Employees of the City may address the Commission on matters of public concern. Employee comments that address an active grievance/arbitration, employee appeal matter (all of which are extensively covered in the Personnel Policies & Procedures and the collective bargaining agreement) or a personnel dispute will not be entertained as a part of Citizen Comments. Employees will be advised of the appropriate forum and process for presenting or discussing such matters.

The Chair may assign issues that require additional examination to a Committee. If assigned, the Committee will provide a report to the City Commission when the examination of the issue is complete.

- (j) Comments From City Manager/City Attorney
- (k) Commission Comments/Discussion

During this section, each Commissioner will have the opportunity to make comments or discuss any items of concern and answer questions from citizen comments. The Commission shall not take final action at the same meeting on items addressed under this section. Final action can only be taken if the City Commission waives its Rules of Procedures. The Commission can direct staff to place any item requiring final action on an upcoming Commission Workshop or Meeting or the Mayor may assign the issue to a Committee for additional examination. The exceptions are items of an emergency nature.

- (l) Adjournment

No meeting should be permitted to continue beyond 11:00 P.M. without the approval of a majority of the Commission. A new time limit must be established before taking a Commission vote to extend the meeting. In the event that a meeting has not been closed or

continued by Commission vote prior to 11:00 P.M., the items not acted on are to be continued to 8:30 a.m. on the following day, unless state law requires hearing at a different time or unless the Commission, by a majority vote of members present, determines otherwise.

SECTION III - COMMISSION PROCEDURES

RULE 22: PUBLIC HEARING

Public hearings shall be held on the 2nd and 4th Monday of the month unless otherwise determined by the Commission. The procedures to be followed for public hearings are, generally as follows:

- (a) The City Manager or designee should describe the agenda item to be considered, and provide the staff recommendation. The Presiding Officer should then inquire as to whether any Commissioners have questions for administration. After Commissioners' questions are answered, the Presiding Officer requests any Commissioner to put forth a motion. If a motion is made, the Presiding Officer opens the public hearing and requests comments from the public.
- (b) Following public comment (if any), the Presiding Officer closes the public hearing and inquires if any Commissioner wishes to put forth a motion. Following the motion and its second, discussion occurs among Commissioners.
- (c) The Presiding Officer inquires if there is any further discussion by the Commissioners and any final comments or recommendations from administration. The Presiding Officer shall entertain comments from the public about the motion on the floor. The presiding officer restates the motion.
- (d) The Presiding Officer inquires of the Commissioners as to whether they are ready for the question. The Presiding Officer restates the vote.
- (e) For quasi-judicial hearings, the Presiding Officer will abide by procedures in the City's Land Development Regulations.

RULE 23: VOTING

The votes during all Commission meetings should be transacted as follows:

Voting on ordinances and resolutions shall be by roll call on final action and shall be declared by the Presiding Officer and recorded in the minutes.

Every member, who was in the Commission chambers when the question was put, must give their vote, unless the member has publicly stated that he/she is abstaining from voting due to a conflict of interest, pursuant to Section 112.3143 or Section 286.011, Florida Statutes. If any Commissioner declines to vote "aye" or "nay" by voice, their vote shall be counted as an "aye" vote.

The passage of any motion, policy or resolution shall require the affirmative vote of at least a majority of the membership of the Commissioners who are present and eligible to vote. In

case of a tie in votes on any proposal, the proposal shall be considered lost.

Any Commissioner shall have the right to express dissent from or protests against any ordinance, resolution or policy of the Commission, and to have the reason therefore entered in the minutes.

RULE 24: RULES OF DEBATE

Every member desiring to speak should address the Presiding Officer and upon said recognition by the Presiding Officer, should be confined to the question under debate.

- (a) A member once recognized should not be interrupted when speaking unless to call said member to order. The member should then cease speaking until the question of order is determined, without debate, by the Presiding Officer. If in order, said member will be at liberty to proceed.
- (b) The member making the motion should be entitled to the floor first for debate.
- (c) If the Presiding Officer wishes to put forth or second a motion, she/he shall relinquish the Chair to the Vice Chair or a member (if the Vice Chair is absent) as provided for in Rule 9 until the main motion, on which she/he spoke, has been disposed of.
- (d) The following motions are not debatable:
 - to adjourn;
 - to lay on the table;
 - to take from the table;
 - to call the question.

RULE 25: CONFLICT OF INTEREST AS SPECIFIED IN 112.3143 OR SECTION 286.011, FLORIDA STATUTES

No Commissioner shall vote in her/his official capacity on a matter which would inure to his/her special private gain or loss, or which the Commissioner knows would inure to the special private gain or loss of any principal by whom he/she is retained, of the parent organization or subsidiary of a corporate principal by which he or she is retained, or a relative or of a business associate. The Commissioner in conflict shall remove him/herself from the room until the action is completed. Within fifteen (15) days following that Commission meeting, she/he shall file with the City Clerk a Form 8B which describes the nature of her/his interest in the matter. The Form 8B shall be received by the Clerk and incorporated into the minutes of the meeting.

RULE 26: ORDINANCES

An enacted ordinance is a legislative act that prescribes general, uniform, and permanent rules of conduct relating to the corporate affairs of the city. Commission action shall be taken by ordinance when required by law, or to prescribe permanent rules of conduct which continue in force until repealed, or where such conduct is enforced by penalty. All ordinances shall be introduced in writing, and scheduled for public hearing after advertisement.

(a) Emergency Ordinances. Affirmative vote of at least two-thirds (2/3) of all the City Commission is required for adoption. The emergency ordinance shall contain a declaration describing that the emergency exists and describing it in clear and specific terms. It shall become effective upon adoption or at such other date as may be specified in the ordinance. Every emergency ordinance except emergency appropriations shall automatically stand repealed as of the sixty-first (61st) day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance under regular procedures, or if the emergency still exists.

(b) If a Motion to pass an ordinance fails, the ordinance shall be considered lost.

RULE 27: RESOLUTIONS

Generally, an enacted resolution is an internal legislative act that is a formal statement of policy concerning matters of special or temporary character. Commission action shall be taken by resolution when required by law, and in those instances where an expression of policy more formal than a motion is desired. All resolutions shall be reduced to writing. A resolution may be put to its final passage on the same day on which it was introduced.

RULE 28: MOTIONS

An enacted motion is a form of action taken by the Commission to direct that a specific action be taken on behalf of the city. A motion, once approved and entered into the record, is the equivalent of a resolution in those instances where a resolution is not required by law. All motions shall be made and seconded before debate.

RULE 29: RECONSIDERATION

A motion to reconsider shall be allowed at any time during a meeting, except when a motion on some other subject is pending. No motion to reconsider shall be made more than once on any subject at the same meeting. A motion to reconsider may be made:

(a) At the same meeting during which an action was taken, provided that the motion to reconsider is made by a member of the prevailing side on the original motion.

(b) At a subsequent meeting by any Commissioner.

Upon passage of a motion to reconsider, no substantive action on the matter may be taken at that meeting so that the public and media may be on notice of the matter to be reconsidered. The subject matter shall be scheduled at the next regular Commission meeting for any action the Commission deems advisable.

RULE 30: RESCINDING ACTION PREVIOUSLY TAKEN

Commission action may be rescinded by a four-fifths (4/5) vote. The motion may be made by any Commissioner after a motion to reconsider has been adopted by a majority vote.

RULE 31: COMMISSION APPOINTMENTS TO BOARDS AND COMMITTEES

Members of the City Commission serve on various boards and committees (e.g., North Central Florida Regional Planning Council, etc.). Appointments are reviewed and made each

year as soon after the City Election as practicable.

(a) If there is no nominee or volunteer for a vacancy, the Chair will appoint a Commissioner to serve.

(b) A listing of appointments will be disseminated to the City Commission in advance of the appropriate meeting so that Commissioners can determine his/her interest in serving on various boards/committees.

RULE 32: CITIZEN ADVISORY BOARDS/COMMITTEES

Citizen advisory boards and committees may be created and dissolved by resolution, ordinance or other act adopted by the Commission. Committee members are appointed by the Commission after advertising vacancies at least (2) two weeks prior to appointment in a local newspaper. All members shall serve at the pleasure of the Commission.

The mission of advisory boards and committees shall be to examine various policy issues referred by the Commission, staff or as determined in the work plan. Committees shall provide guidance to the Commission in the development of policy recommendations. Committees shall not attempt to manage the administrative operations of the City; the committee will not be involved in directing staff.

(a) The City Manager's/Clerk's office shall furnish the chair of each advisory board or committee copies of all resolutions or ordinances that pertain to that committee. Such information shall be delivered to the committee chair within one (1) week after adoption by the Commission, or as soon thereafter as possible.

(b) Appointment to citizen advisory boards shall be by voice vote or written ballot during a regular Commission meeting. Priority shall be given to applicants from the City of Alachua.

(c) All Commission advisory boards, commissions and other bodies shall meet in public buildings after required public notice is given.

(d) All statutory boards, commissions and citizen advisory bodies should provide the minutes taken at each meeting. Communications to the Commission from such boards, commissions and bodies shall be received in the mail of the Commission Chair.

All Chairpersons of advisory boards/committees may provide updates to the City Commission at its regularly scheduled meetings during Committee Reports/Committee Appointments/City Announcements. All requests for presentations shall be submitted to the Office of the City Manager/Clerk.

(e) Employees shall not be precluded from serving on citizen advisory boards/committees.

The Commission may make exceptions to the above general policy on a case-by-case basis when necessary to: preserve the stability of a board or Committee; retain a particular appointee because of her/his special expertise or knowledge; or for such other circumstances

as the Commission deems warranted.

Appointees personal and business affairs conducted within the City of Alachua must be in substantial compliance with all City regulatory and taxing authorities rules and regulations. Appointees deemed to be in chronic violation of any City rule, regulation, or policy may be disallowed from membership on citizen advisory boards or committees by a majority vote of the Commission.

(h) Citizen advisory boards and committees are required to adhere to the 'Guidelines for Citizen Advisory Boards & Committees' as approved by the City Commission. These guidelines are incorporated herein.

(i) Citizen advisory boards and committees created by or in response to federal or state statutory requirements shall conduct business consistent with these guidelines unless otherwise provided for by such federal or state statutory requirements.

RULE 33: NON-AGENDA INQUIRIES AT COMMISSION MEETINGS

(a) At regularly scheduled City Commission meetings, the Commission shall provide a comment period for citizens and taxpayers of the City to speak on non-agenda items. This public comment period is denoted on the agenda as “Comments From Citizens On Subject Of Choice.” The remarks of each speaker shall be limited to three minutes, unless more time is granted by the Presiding Officer or Commission.

(b) The purpose of the public comment portion of the meeting is to receive citizen input pertaining to matters over which the City Commission has jurisdiction or control. This period of time is for comments and not for questions directed to the City Commission or staff for immediate answer. Questions directed to the city Commission may be referred to staff to be answered within a reasonable period of time following the date of the meeting.

(c) Citizens are encouraged to call the appropriate City department during regular business hours. If you have contacted the department and for some reason results were not satisfactory, please call the director of the department or the City Manager’s office.

RULE 34: SUSPENSION AND CONSTRUCTION OF RULES

These rules may be amended or temporarily suspended at any meeting of the Commission with an affirmative vote of a majority of the Commission. These rules are for the efficient and orderly conduct of Commission business only; no violation of such rules shall invalidate any action of the Commission when approved by a majority vote required by law.

GUIDELINES FOR CITIZENS ADVISORY BOARDS & COMMITTEES

1. Committees are to be designated as standing or special.
2. A sunset date will be specified for special committees.
3. Transition Between Members:

By-laws, enacting ordinances, guiding document, etc. will include language, which provides for members (whose terms have expired) to continue serving until the appropriate appointments are made.

4. Term Length for serving on any standing committee will be a minimum of two years unless otherwise specified (e.g. State Statute may require term lengths of less than two years, board/committee enacting ordinance provisions)

5. Attendance:

a. Reports/notices of absences are to be made to the board or committee Chair (or staff liaison if the Chair is unavailable).

b. The board or committee liaison will provide written notice of attendance violations to the City Commission Chair. The Commission will be responsible for removing members who do not meet the attendance requirement.

c. Absence from four (4) consecutive regular meetings of the advisory board or committees shall operate to vacate the seat of a member, unless such absence is excused by the City Commission by resolution setting forth the fact of such excuse duly entered into the minutes.

6. Elections of Officers:

a. All board and committee officers (i.e. Chair, Vice Chair, etc) shall be elected by the membership of the citizen advisory board of committee, unless otherwise specified.

b. Officers shall be elected.

7. Meeting Frequency:

a. At a minimum, all boards and committees shall meet once per year.

b. The names of those boards or committees that do not meet this minimum requirement shall be submitted to the City Managers Office.

c. Recommendations to dissolve committees or other recommended action will be submitted to the City Commission for consideration.

d. Any advisory board or committee whose officers are elected/appointed as prescribed in federal and/or state statute shall be exempted from Guideline 6.

8. Parliamentary Procedure:

As appropriate, Robert's Rules of Order may be used as a guide in conducting board and committee meetings.

RULES FOR PUBLIC COMMENT ON PROPOSITIONS DURING ALACHUA BOARD MEETINGS

The City Commission of the City of Alachua recognizes the importance of protecting the right of individuals to express opinions on matters being considered at public meetings being conducted by various Boards appointed by the Commission. The City of Alachua liberally allows public comment at its various Board meetings. However, in order to insure that the City and its Boards comply with Florida Statute 286.0114, the City Commission of Alachua hereby directs its Boards to utilize the following rules in order to allow the public a reasonable opportunity to be heard on a proposition before the Board:

1. The Presiding Officer of the meeting shall allot three (3) minutes to each person who wishes to address a proposition being considered by the Board. The individual shall address the Presiding Officer and all questions shall be facilitated through the Presiding Officer. The individual cannot yield time to another individual;
2. If groups or factions wish to have their opinion on a proposition expressed to the Board by a representative, a paper containing the names of the individuals, groups, or factions, the name of the representative to speak on their behalf, and the proposition they wish the representative to address shall be provided to City Staff **PRIOR** to the beginning of the Board meeting. When the proposition is opened up for public comment, the representative shall advise the Board of the names of the groups or factions whose opinions are being provided by the representative. The representative shall then be allotted fifteen (15) minutes for the presentation, unless otherwise provided for by law or regulation;
3. The City of Alachua does not require an individual to provide advanced notification orally or in writing in order to express a desire to address a proposition before any Board, including, but not limited to, voicing their support, opposition or neutrality on a proposition;
4. The reasonable opportunity to be heard on a proposition before a Board does not apply to:
 - a) An official act that must be taken to deal with an emergency situation affecting the public health, welfare, or safety, if compliance with the requirements would cause an unreasonable delay in the ability of the Board to act;
 - b) An official act involving no more than a ministerial act, including, but not limited to, approval of minutes and ceremonial proclamations;
 - c) A meeting that is exempt from the public by Florida Statute 286.011; or
 - d) A meeting during which the Board is acting in a quasi-judicial capacity. This paragraph does not affect the right of a person to be heard as otherwise provided by law.
5. Nothing in these rules shall preclude any Board from maintaining orderly conduct and proper decorum in a public meeting; and
6. Each Board shall allow a specified time for public comment at the end of each meeting.

CHAPTER 2013-227

Committee Substitute for
Committee Substitute for Senate Bill No. 50

An act relating to public meetings; creating s. 286.0114, F.S.; defining “board or commission”; requiring that a member of the public be given a reasonable opportunity to be heard by a board or commission before it takes official action on a proposition; providing exceptions; establishing requirements for rules or policies adopted by the board or commission; providing that compliance with the requirements of this section is deemed to have occurred under certain circumstances; providing that a circuit court has jurisdiction to issue an injunction under certain circumstances; authorizing a court to assess reasonable attorney fees in actions filed against a board or commission; providing that an action taken by a board or commission which is found in violation of this section is not void; providing that the act fulfills an important state interest; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 286.0114, Florida Statutes, is created to read:

286.0114 Public meetings; reasonable opportunity to be heard; attorney fees.—

(1) For purposes of this section, “board or commission” means a board or commission of any state agency or authority or of any agency or authority of a county, municipal corporation, or political subdivision.

(2) Members of the public shall be given a reasonable opportunity to be heard on a proposition before a board or commission. The opportunity to be heard need not occur at the same meeting at which the board or commission takes official action on the proposition if the opportunity occurs at a meeting that is during the decisionmaking process and is within reasonable proximity in time before the meeting at which the board or commission takes the official action. This section does not prohibit a board or commission from maintaining orderly conduct or proper decorum in a public meeting. The opportunity to be heard is subject to rules or policies adopted by the board or commission, as provided in subsection (4).

(3) The requirements in subsection (2) do not apply to:

(a) An official act that must be taken to deal with an emergency situation affecting the public health, welfare, or safety, if compliance with the requirements would cause an unreasonable delay in the ability of the board or commission to act;

(b) An official act involving no more than a ministerial act, including, but not limited to, approval of minutes and ceremonial proclamations;

(c) A meeting that is exempt from s. 286.011; or

(d) A meeting during which the board or commission is acting in a quasi-judicial capacity. This paragraph does not affect the right of a person to be heard as otherwise provided by law.

(4) Rules or policies of a board or commission which govern the opportunity to be heard are limited to those that:

(a) Provide guidelines regarding the amount of time an individual has to address the board or commission;

(b) Prescribe procedures for allowing representatives of groups or factions on a proposition to address the board or commission, rather than all members of such groups or factions, at meetings in which a large number of individuals wish to be heard;

(c) Prescribe procedures or forms for an individual to use in order to inform the board or commission of a desire to be heard; to indicate his or her support, opposition, or neutrality on a proposition; and to indicate his or her designation of a representative to speak for him or her or his or her group on a proposition if he or she so chooses; or

(d) Designate a specified period of time for public comment.

(5) If a board or commission adopts rules or policies in compliance with this section and follows such rules or policies when providing an opportunity for members of the public to be heard, the board or commission is deemed to be acting in compliance with this section.

(6) A circuit court has jurisdiction to issue an injunction for the purpose of enforcing this section upon the filing of an application for such injunction by a citizen of this state.

(7)(a) Whenever an action is filed against a board or commission to enforce this section, the court shall assess reasonable attorney fees against such board or commission if the court determines that the defendant to such action acted in violation of this section. The court may assess reasonable attorney fees against the individual filing such an action if the court finds that the action was filed in bad faith or was frivolous. This paragraph does not apply to a state attorney or his or her duly authorized assistants or an officer charged with enforcing this section.

(b) Whenever a board or commission appeals a court order that has found the board or commission to have violated this section, and such order is affirmed, the court shall assess reasonable attorney fees for the appeal against such board or commission.

(8) An action taken by a board or commission which is found to be in violation of this section is not void as a result of that violation.

Section 2. The Legislature finds that a proper and legitimate state purpose is served when members of the public have been given a reasonable opportunity to be heard on a proposition before a board or commission of a state agency or authority, or of an agency or authority of a county, municipal corporation, or political subdivision. Therefore, the Legislature determines and declares that this act fulfills an important state interest.

Section 3. This act shall take effect October 1, 2013.

Approved by the Governor June 28, 2013.

Filed in Office Secretary of State June 28, 2013.

property, law of. See LAW OF PROPERTY.

property crimes. See CRIMES AGAINST PROPERTY.

property-damage insurance. See *property insurance* under INSURANCE.

property dividend. See *asset dividend* under DIVIDEND.

property division. See PROPERTY SETTLEMENT (1).

property insurance. See INSURANCE.

property of the debtor. *Bankruptcy.* Property that is owned or (in some instances) possessed by the debtor, including property that is exempted from the bankruptcy estate. 11 USCA § 541(b). — Also termed *debtor's property*. [Cases: Bankruptcy ☞2531-2559. C.J.S. *Bankruptcy* §§ 105-109, 111, 113-120, 122.]

property of the estate. *Bankruptcy.* The debtor's tangible and intangible property interests (including both legal and equitable interests) that fall under the bankruptcy court's jurisdiction because they were owned or held by the debtor when the bankruptcy petition was filed. 11 USCA § 541. — Also termed *estate's property*. [Cases: Bankruptcy ☞2491-2559. C.J.S. *Bankruptcy* §§ 105-109, 111, 113-120, 122-124, 126, 128.]

property *ratione privilegii* (ray-shee-oh-nee priv-i-lee-gee-i). *Hist.* A common-law right, granted by a royal franchise, to take wild animals on another's land. • This principle made its way into American law. See, e.g., *Hanson v. Fergus Falls Nat'l Bank*, 65 N.W.2d 857, 862 (Minn. 1954). Cf. PROPERTY RATIONE SOLI.

"Property *Ratione privilegii* is the right which, by a peculiar franchise anciently granted by the Crown in virtue of its prerogative, one man had of killing and taking animals *Ferae naturae* on the land of another; and in like manner the game, when killed or taken by virtue of the privilege, became the absolute property of the owner of the franchise, just as in the other case it becomes the absolute property of the owner of the soil." *Blades v. Higgs*, 11 Eng. Rep. 1474, 1479 (H.L. 1865).

property *ratione soli* (ray-shee-oh-nee soh-li). The common-law right to take wild animals found on one's own land. Cf. PROPERTY RATIONE PRIVILEGII.

"The exclusive common law right of a landowner to take game on his land, known as property *ratione soli* ... has been recognized throughout the history of common law, with one exception: Following the Norman Conquest the King contended that he was lord paramount of the field, possessed of the right to the universal soil and of the exclusive right to take the game, but the irate landowners, vehemently objecting, quickly and decisively recaptured their rights and re-established the common law." *Allford v. Finch*, 155 So. 2d 790, 792 (Fla. 1963).

Property right. See RIGHT.

property settlement. 1. A judgment in a divorce case determining the distribution of the marital property between the divorcing parties. • A property settlement includes a division of the marital debts as well as assets. — Also termed *property division*; *division of property*. [Cases: Husband and Wife ☞248.] 2. A contract that divides up the assets of divorcing spouses and is incorporated into a divorce decree. — Also termed *integrated property settlement*; *property settlement agreement*. Cf. DIVORCE AGREEMENT. [Cases: Husband and Wife ☞277.] 3. MARITAL AGREEMENT.

Property settlement agreement. See PROPERTY SETTLEMENT (2).

property tax. See TAX.

property tort. See TORT.

prophylactic (proh-fə-lak-tik), *adj.* Formulated to prevent something <a prophylactic rule>. — **prophylaxis** (proh-fə-lak-sis), **prophylactic**, *n.*

prophylactic cost. See COST (1).

propinquity (prə-ping-kwə-tee). The state of being near; specif., kindred or parentage <degrees of propinquity>.

propior sobrina (proh-pee-ər sə-bri-nə), *n.* [Latin] *Civil law.* The daughter of a great-uncle or great-aunt, paternal or maternal.

propior sobrino (proh-pee-ər sə-bri-noh), *n.* [Latin] *Civil law.* The son of a great-uncle or great-aunt, paternal or maternal.

propone (prə-pohn), *vb.* To put forward for consideration or adjudication <propone a will for probate>.

proponent, *n.* 1. A person who puts forward a legal instrument for consideration or acceptance; esp., one who offers a will for probate. [Cases: Wills ☞211, 219. C.J.S. *Wills* §§ 453-456, 468.] 2. A person who puts forward a proposal; one who argues in favor of something <a proponent of gun control>. 3. *Parliamentary law.* A member who speaks in favor of a pending motion. Cf. OPPONENT (3).

proportionality. *Int'l law.* The principle that the use of force should be in proportion to the threat or grievance provoking the use of force.

proportionality review. *Criminal law.* An appellate court's analysis of whether a death sentence is arbitrary, capricious, or excessive by comparing the case in which it was imposed with similar cases in which the death penalty was approved or disapproved. [Cases: Sentencing and Punishment ☞1788(6). C.J.S. *Criminal Law* §§ 1531-1532, 1534-1538, 1541-1543, 1608, 1703-1706, 1709.]

proportional quorum. See QUORUM.

proportional representation. 1. An electoral system that allocates legislative seats to each political group in proportion to its popular voting strength. [Cases: Constitutional Law ☞225.3(10); Elections ☞12. C.J.S. *Constitutional Law* § 823; *Elections* §§ 8, 40(1).] 2. See *proportional voting* under VOTING. • The term refers to two related but distinguishable concepts: *proportional outcome* (having members of a group elected in proportion to their numbers in the electorate) and *proportional involvement* (more precisely termed *proportional voting* and denoting the electoral system also known as *single transferable voting*).

proportional tax. See *flat tax* under TAX.

proportional voting. See VOTING.

proportionate-reduction clause. See LESSER-INTEREST CLAUSE.

proposal. Something offered for consideration or acceptance.

proposed agenda. See AGENDA.

proposed regulation. See REGULATION.

proposition. See *main motion* under MOTION (2).

de facto mother. See *de facto parent* under PARENT.

foster mother. See *foster parent* under PARENT.

genetic mother. See *biological mother.*

gestational mother. See *birth mother.*

godmother. See GODPARENT.

intentional mother. See *intentional parent* under PARENT.

natural mother. See *birth mother; biological mother.*

psychological mother. See *psychological parent* under PARENT.

stepmother. The wife of one's father by a later marriage. [Cases: Parent and Child ¶15. C.J.S. Parent and Child §§ 345-350, 357-358.]

surrogate mother. 1. A woman who carries out the gestational function and gives birth to a child for another; esp. a woman who agrees to provide her uterus to carry an embryo throughout pregnancy, typically on behalf of an infertile couple, and who relinquishes any parental rights she may have upon the birth of the child. • A surrogate mother may or may not be the genetic mother of a child. — Often shortened to *surrogate*. — Also termed *surrogate parent; gestational surrogate; gestational carrier; surrogate carrier*. [Cases: Adoption ¶6. C.J.S. Adoption of Persons §§ 25-40.] 2. A person who performs the role of a mother. [Cases: Parent and Child ¶15. C.J.S. Parent and Child §§ 345-350, 357-358.]

mother country. A colonizing nation; a colonial power. Cf. COLONY.

Mother Hubbard clause. 1. A clause stating that a mortgage secures all the debts that the mortgagor may at any time owe to the mortgagee. — Also termed *anaconda clause; dragnet clause*. [Cases: Mortgages ¶14, 114, 121. C.J.S. Mortgages §§ 143-150, 157-161, 169.] 2. *Oil & gas.* A provision in an oil-and-gas lease protecting the lessee against errors in the description of the property by providing that the lease covers all the land owned by the lessor in the area. • A Mother Hubbard clause is sometimes combined with an after-acquired-title clause. — Also termed *cover-all clause*. 3. A court's written declaration that any relief not expressly granted in a specific ruling or judgment is denied. [Cases: Mines and Minerals ¶55, 73.1. C.J.S. Mines and Minerals §§ 158-160, 169, 240-246, 265, 291, 442.]

mother-in-law. The mother of a person's spouse.

motion. 1. A written or oral application requesting a court to make a specified ruling or order. [Cases: Federal Civil Procedure ¶921-928.]

calendar motion. A motion relating to the time of a court appearance • Examples include motions to continue, motions to advance, and motions to reset. [Cases: Trial ¶9-16. C.J.S. Trial §§ 60-90.]

contradictory motion. *Civil law.* A motion that is likely to be contested or that the nonmoving side should have an opportunity to contest. Cf. *contradictory judgment* under JUDGMENT.

cross-motion. A competing request for relief or orders similar to that requested by another party

against the cross-moving party, such as a motion for summary judgment or for sanctions.

enumerated motion. *Archaic.* A motion directly related to the proceeding or the merits of the case.

ex parte motion (eks pah-tee). A motion made to the court without notice to the adverse party; a motion that a court considers and rules on without hearing from all sides. — Also termed *ex parte application*. [Cases: Motions ¶19. C.J.S. Motions and Orders §§ 10, 14-16.]

motion for reduction. *Family law.* A motion to lessen the amount of child-support payments. • This is a type of motion to modify.

motion for resettlement. A request to clarify or correct the form of an order or judgment that does not correctly state the court's decision. • The motion cannot be used to request a substantial change to or amplification of the court's decision.

motion of course. A party's request that the court may grant as a matter of routine, without investigating or inquiring further.

motion to modify. A post-final-decree motion asking the court to change one of its earlier orders; esp. a request to change child support or visitation. — Also termed *complaint for modification; motion for modification*.

omnibus motion. A motion that makes several requests or asks for multiple forms of relief. [Cases: Motions ¶5. C.J.S. Motions and Orders § 8.]

posttrial motion. A motion made after judgment is entered, such as a motion for new trial. [Cases: Federal Civil Procedure ¶2368, 2605; New Trial ¶124. C.J.S. New Trial §§ 147, 170, 174-175, 177, 185-186.]

speaking motion. A motion that addresses matters not raised in the pleadings. [Cases: Federal Civil Procedure ¶1834.]

special motion. A motion specifically requiring the court's discretion upon hearing, as distinguished from one granted as a matter of course. [Cases: Motions ¶36. C.J.S. Motions and Orders §§ 34-35, 37.]

2. *Parliamentary law.* A proposal made in a meeting, in a form suitable for its consideration and action, that the meeting (or the organization for which the meeting is acting) take a certain action or view. • A motion may be a *main motion* or a *secondary motion*. A motion technically becomes a "question" when the chair states it for the meeting's consideration. But for most purposes, the parliamentary terms "motion" and "question" are interchangeable. Cf. REQUEST.

coexisting motion. *Parliamentary law.* A main motion, such as one raising a question of privilege, that is pending at the same time as another main motion of lower precedence.

dilatory motion (dil-ə-tor-ee). 1. A motion made solely for the purpose of delay or obstruction. 2. A motion that delays the proceedings.

immediately pending motion. The pending motion directly under consideration; the pending motion