

1                   **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY**  
2                   **OF ORLANDO, FLORIDA, RELATING TO PROCEDURES**  
3                   **FOR QUASI-JUDICIAL HEARINGS; AMENDING**  
4                   **SECTION 2.206, ORLANDO CITY CODE, “PRE-**  
5                   **HEARING PROCEDURES” TO PROVIDE FOR CERTAIN**  
6                   **QUASI-JUDICIAL HEARINGS BEFORE THE ORLANDO**  
7                   **CITY COUNCIL IN LIEU OF A HEARING OFFICER;**  
8                   **PROVIDING LEGISLATIVE FINDINGS, AND FOR**  
9                   **SEVERABILITY, CODIFICATION, CORRECTION OF**  
10                   **SCRIVENER’S ERRORS, AND AN EFFECTIVE DATE.**

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12                   **WHEREAS**, since 1994, the City of Orlando, Florida (the “City”), has provided  
13 procedures for certain quasi-judicial hearings pursuant to Article XXXII, Chapter 2, Code  
14 of the City of Orlando, Florida (the “Orlando City Code”); and

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16                   **WHEREAS**, Article XXXII, Chapter 2, Orlando City Code (the “quasi-judicial  
17 hearing ordinance”), provides the opportunity for a quasi-judicial hearing before a  
18 hearing officer for parties adversely affected by proposed quasi-judicial decision of the  
19 Orlando City Council upon recommendation from the Municipal Planning Board, the  
20 Board of Zoning Adjustment, the Historic Preservation Board, the Appearance Review  
21 Board, and the Human Relations Board; and

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23                   **WHEREAS**, when invoked by an adversely-affected party, the quasi-judicial  
24 hearing ordinance results in a quasi-judicial hearing before a hearing officer and a  
25 recommended order being provided to the Orlando City Council by the hearing officer in  
26 lieu of a quasi-judicial hearing being conducted before the Orlando City Council; and

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28                   **WHEREAS**, conducting quasi-judicial hearings before a hearing officer pursuant  
29 to the quasi-judicial hearing ordinance typically takes 4 to 6 months from the time a  
30 request for hearing is filed until a recommended order is adopted by the Orlando City  
31 Council; and

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33                   **WHEREAS**, the Orlando City Council hereby finds that the current quasi-judicial  
34 hearing ordinance occasionally results in an unreasonable and unfair delay in the City’s  
35 development review process and that on occasion the quasi-judicial procedure has been  
36 invoked by parties for the purposes of delay or to impose additional cost and expense on  
37 the applicant; and

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39                   **WHEREAS**, the Orlando City Council hereby finds that the City’s quasi-judicial  
40 hearing procedures must provide procedural and substantive due process to applicants  
41 and adversely-affected parties, including the essential elements of notice, opportunity to  
42 be heard, a fair and neutral magistrate, and that such procedures must be provided in a  
43 timely and efficient manner so that quasi-judicial decisions are made on their merits  
44 rather than being subject to potentially decisive procedural hurdles; and

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46                   **NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY**  
47 **OF ORLANDO, FLORIDA, AS FOLLOWS:**

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49                   **SECTION 1. SEC. 2.206, AMENDED.** Section 2.206, Code of the City of  
50 Orlando, Florida, is hereby amended as follows:  
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52 **Sec. 2.206. - Pre-Hearing Procedures.**  
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54 (1) *Hearing Officers.* The City shall negotiate and enter into contracts with  
 55 Hearing Officers from time to time, and shall maintain an alphabetical list of such  
 56 Hearing Officers. Cases shall be assigned to Hearing Officers on a rotating basis. If  
 57 a Hearing Officer is unable to accept a case because of a conflict, time constraints,  
 58 or any other reason, the case shall be assigned to the next Hearing Officer on the  
 59 list. The Hearing Administrator shall notify all parties of the assignment of the  
 60 particular hearing officer to a matter as soon as possible after the assignment has  
 61 been made and accepted.  
 62

63 (2) *Disqualification of Hearing Officer.* Unless good cause is shown, all  
 64 motions for disqualification shall be filed with the Hearing Administrator no later than  
 65 ten (10) working days after the moving party has been notified of the assignment of  
 66 the particular hearing officer. The motion shall be accompanied by an affidavit  
 67 stating particular grounds, which shall be limited to those for which a judge may be  
 68 disqualified. The affidavit must state facts sufficient to show that the movant has a  
 69 well-founded fear that the movant will not receive a fair and impartial hearing.  
 70 Unless denied as untimely, the motion shall be ruled on by the Hearing Officer  
 71 before whom the case is pending. If the motion and affidavit are found legally  
 72 sufficient, the Hearing Officer shall disqualify himself or herself, after which the  
 73 matter will be given to the next available Hearing Officer on the list.  
 74

75 (3) *Pre-Hearing Stipulation.* At any time after a matter has been assigned to  
 76 a Hearing Officer, the Hearing Officer may direct the parties to confer for the  
 77 purpose of clarifying and simplifying the issues, discussing possibilities of  
 78 settlement, examining documents and other exhibits, exchanging names and  
 79 addresses of witnesses, resolving other procedural matters, and entering into a pre-  
 80 hearing stipulation.  
 81

82 (4) *Pre-Hearing Conference.* No less than thirty-five (35) and no more than  
 83 forty-five (45) calendar days after a petition is filed, the Hearing Officer shall  
 84 schedule and conduct a pre-hearing conference with the parties. The pre-hearing  
 85 conference may be conducted by telephone. At the pre-hearing conference, the  
 86 Hearing Officer shall schedule a time for the final hearing. Additional pre-hearing  
 87 conferences may be scheduled as deemed necessary by the Hearing Officer. At a  
 88 pre-hearing conference the Hearing Officer may also:  
 89

90 (a) rule on all pending motions;

91  
 92 (b) schedule the service of motions, pleadings, and other papers, and  
 93 schedule, limit, order, or expedite discovery (including directing an exchange of  
 94 witness lists and proposed evidence);  
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96 (c) pursue the possibility of settlement;

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 98 (d) take any other action to further the progress of the proceeding;

99 and,  
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101 (e) enter an order reciting the action taken at a pre-hearing  
102 conference and any stipulations made. Any such order shall govern the subsequent  
103 course of the proceeding, unless modified to prevent injustice.  
104

105 (5) *Intervention*. An adversely-affected person may file a motion to intervene  
106 in the proceedings. The motion shall be filed with the Hearing Administrator no later  
107 than ten (10) working days prior to the final hearing. The adversely-affected person  
108 shall furnish copies of such motion to all parties. The motion shall contain  
109 allegations sufficient to demonstrate that the intervenor is entitled to participate in  
110 the proceeding as a matter of constitutional or statutory right or pursuant to the City  
111 Code, or that the substantial interests of the intervenor are subject to determination  
112 or will be adversely affected through the proceeding. The motion also shall state  
113 why the adversely-affected person could not have filed an original petition or  
114 response. Good cause must be shown for allowing an adversely-affected person to  
115 intervene. Mere negligence shall not be grounds for allowing an adversely-affected  
116 person who could have filed a petition or response to intervene. The motion shall  
117 also be in conformance with the requirements of an original petition as set forth  
118 in Section 2.205. Any party may make written objections to the motion to intervene  
119 within five (5) working days after receipt of the motion. The Hearing Officer shall rule  
120 on the motion to intervene prior to the hearing or at the commencement of the  
121 hearing.  
122

123 (6) *Hearing before Council*. Notwithstanding anything in this Code to the contrary,  
124 the City Council may, at any time after a request for hearing as been timely filed and  
125 before the hearing described in section 2.207 of this Code, enter an order to hold the  
126 quasi-judicial hearing before the City Council instead of before a hearing officer. Such an  
127 order shall have the effect of automatically staying proceedings before the hearing  
128 officer pending the outcome of the hearing at City Council. The order electing to hold the  
129 hearing before the City Council must include the proposed date, time, and place of the  
130 hearing and must also provide reasonable time for each adversely-affected party to be  
131 heard on the quasi-judicial matter. This subsection applies only to quasi-judicial matters  
132 reviewed by the City's Municipal Planning Board. In deciding whether to issue an order  
133 pursuant to this subsection, the City Council must consider the following:  
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135 (a) the number of adversely-affected parties, with preference given to  
136 holding the hearing before a hearing officer where many adversely-affected parties are  
137 present; and  
138

139 (b) the size of the proposed development, with preference given to  
140 holding the hearing before a hearing officer where the development program is great or  
141 the land area covered by the development is large; and  
142

143 (c) the factual and legal complexity of the matter, with preference given to  
144 holding the hearing before a hearing officer where the questions of law and fact are  
145 complex or novel; and  
146

147 (d) the time-sensitivity of the quasi-judicial application, with great  
148 preference given to holding the hearing before the City Council where the inherent delay  
149 of holding the quasi-judicial hearing before a hearing officer is unfair or unreasonable in  
150 light of demonstrable time-constraints on the proposed development related to financing  
151 or market conditions, or where the development review process is imposing an unfair or

152 unreasonable delay on the applicant or other adversely-affected party. Additionally, great  
153 preference shall be given to holding the hearing before the City Council where the  
154 Municipal Planning Board recommended approval (or approval with conditions) of the  
155 quasi-judicial application and the City Council finds that the inherent delay of holding the  
156 hearing before a hearing officer will unreasonably prejudice the applicant or other  
157 adversely-affected party.

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159 After conducting a quasi-judicial hearing pursuant to an order entered under this  
160 subsection, the City Council may immediately render a decision on the quasi-judicial  
161 application or may refer the application back to the Hearing Officer.

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163 **SECTION 2. CODIFICATION.** The city clerk and the city attorney shall cause  
164 the Code of the City of Orlando, Florida, to be amended as provided by this ordinance  
165 and may renumber, re-letter, and rearrange the codified parts of this ordinance if  
166 necessary to facilitate the finding of the law.

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168 **SECTION 3. SCRIVENER'S ERROR.** The city attorney may correct scrivener's  
169 errors found in this ordinance by filing a corrected copy of this ordinance with the city  
170 clerk.

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172 **SECTION 4. SEVERABILITY.** If any provision of this ordinance or its  
173 application to any person or circumstance is held invalid, the invalidity does not affect  
174 other provisions or applications of this ordinance which can be given effect without the  
175 invalid provision or application, and to this end the provisions of this ordinance are  
176 severable.

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178 **SECTION 5. EFFECTIVE DATE.** This ordinance takes effect upon adoption.

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180 **DONE, THE FIRST READING,** by the City Council of the City of Orlando,  
181 Florida, at a regular meeting, the \_\_\_\_\_ day of \_\_\_\_\_, 2016.

182  
183 **DONE, THE PUBLIC NOTICE,** in a newspaper of general circulation in the City  
184 of Orlando, Florida, by the city clerk of the City of Orlando, Florida, the \_\_\_\_\_ day of  
185 \_\_\_\_\_, 2016.

186  
187 **DONE, THE SECOND READING AND PUBLIC HEARING, AND ENACTED ON**  
188 **FINAL PASSAGE,** by an affirmative vote of a majority of a quorum present of the City  
189 Council of the City of Orlando, Florida, at a regular meeting, the \_\_\_\_\_ day of  
190 \_\_\_\_\_, 2016.

191  
192 BY THE MAYOR OF THE CITY OF  
193 ORLANDO, FLORIDA:

194  
195  
196  
197 \_\_\_\_\_  
198 Mayor

199 ATTEST, BY THE CLERK OF THE  
200 CITY COUNCIL OF THE CITY OF  
201 ORLANDO, FLORIDA:  
202

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\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Print Name

THIS ORDINANCE DRAFTED BY AND  
APPROVED AS TO FORM AND LEGALITY  
FOR THE USE AND RELIANCE OF THE  
CITY OF ORLANDO, FLORIDA:

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Print Name

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