
Sec. 30-62. Amendment procedures.

(f) **Public notice procedures.** The following procedures are public notice requirements some or all of which are to be utilized for various types of development permits to the extent specifically required in this LDC.

(1) *Posted notice/public hearing sign.*

- a. If required by this LDC, a 32 square foot sign, with a minimum of one inch wide by four inch high letters, which clearly announces the pending application(s) shall be posted on the property subject to the application in a prominent and conspicuous location clearly visible from an adjoining public right-of-way, or at such other location as designated by the director to ensure maximum exposure of the sign(s) to the public. A designated outparcel of a larger property which does not abut a public right-of-way, shall have the sign posted near the closest public right-of-way to the larger parcel.
- b. The sign shall be erected by the applicant at the their expense. Submission of an application by a property owner, or said owner's agent, shall constitute permission to post said sign. The sign shall be continuously maintained as posted by the applicant during the period prior to the advertised public hearing.
- c. The sign must contain the following information:
 1. A title stating NOTICE OF PUBLIC LAND USE HEARING. The title shall be in all capital letters with bold type;
 2. The application number(s);
 3. A description of the proposed application;
 4. The planned public hearing dates, times and locations; and
 5. The department's contact information.
- d. The sign shall be posted at least 15 days prior to the first scheduled public hearing.
- e. The sign shall be removed by the applicant within five days after the application's final hearing advertised on the sign.

(2) *Courtesy mailed notices.*

- a. If required by this LDC, courtesy notices shall be provided in addition to any legally required notice by state law. These notices are provided as a courtesy to certain persons that may be affected by a development permit application for the purpose of notifying those persons of the application and their ability to review submitted information and participate in public hearings or neighborhood information meetings. The failure of a property owner to receive a courtesy notice shall not be deemed as a failure to furnish or receive legally required written notice pursuant to this LDC. The failure of the applicant to send a courtesy notice shall be deemed as a failure to furnish legally required written notice pursuant to this LDC.
- b. The cost of providing the courtesy notice as required by this LDC shall be the sole responsibility of the development permit applicant or said applicant's designated agent. Failure to comply with the provisions of this section in a timely manner may result in a postponement of the scheduled hearing until the notice is complete, or imposition by the department that a re-notice by the applicant must be accomplished at the applicant's sole expense.
- c. A courtesy notice shall be mailed to all real property owners of real property any part of which is located within 300 feet of the real property subject to a development permit application. The

300-foot radius shall be measured in a straight line in all directions from the outermost boundary of the real property subject to a development permit application to any real property any part of which is within the 300-foot radius. Real property owners to whom a courtesy notice shall be given by mail shall be the real property owners of record as shown in the records of the county property appraiser at the time of mailing of the notice. The failure of a property owner to receive a courtesy notice shall not be deemed as a failure to receive legally required written notice pursuant to this LDC subsection. **The mailed notice shall be sent by first class U.S. certified mail,** return receipt requested, postage prepaid, by the applicant. Notice need not be given to the trustees of the internal improvement fund as the owners of submerged bottoms of real property. When mailing receipts or returned certified mail receipt cards are received, they shall be promptly filed with the city.

- d. If any part of the "common elements", as defined in F.S. § 718.103, of a condominium or any part of the "common areas," as defined in F.S. § 719.103, of a cooperative building, is within the required notice limits, notice shall be sent to the condominium or cooperative association as well as each unit owner in the subject building. If real property within an adjacent governmental jurisdiction is within the notice limits, notice shall be required to be given to each owner of a parcel of land within the adjacent jurisdiction.
- e. The courtesy notice shall be deposited in and postmarked by the U.S. mail at least 15 days prior to the scheduled public hearing or neighborhood information meeting, being noticed. **The courtesy notice shall be mailed postage prepaid, first class, certified U.S. mail,** return receipt requested, by the applicant. Copies of all mailing receipts shall be promptly filed with the city clerk. Return receipt cards shall be addressed to the city clerk at city hall.
- f. The mailed courtesy notice shall contain the following information:
 1. A title stating NOTICE OF PUBLIC LAND USE HEARING, which shall be at the top of the notice page, conspicuously placed, in bold type with at least 72 point type;
 2. A description of the application in layman's English language terms, that is the subject of the hearing, including the type(s) of approval requested, and the application number(s);
 3. A statement that information regarding the application(s), including planned public hearing dates, times, and locations, and a written staff report may be obtained from the department;
 4. A notification that any member of the public may attend the noticed meeting and be heard or may submit written comments prior to the meeting to the director or at the meeting;
 5. A notice that the public hearing or neighborhood information meeting may be continued from time to time;
 6. The department's contact information, including address, telephone number, and e-mail address;
 7. Wording consistent with F.S. § 286.0105, as follows:

Pursuant to F.S. § 286.0105, the City hereby advises you that if you or another person decide to appeal any decision made by the Planning Board or the City Council with respect to any matter considered at its meeting or this hearing that you or said person may need to insure that a verbatim record of the proceedings is made at your expense, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission into evidence of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law; and

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8. Wording consistent with F.S. § 286.26, as follows:

In accordance with the Americans with Disabilities Act and F.S. § 286.26, persons with disabilities needing special accommodation to participate in this proceeding should contact the city clerk at least 48 hours prior to the proceedings at (239) 389-5000 for assistance.

In the event of a neighborhood information meeting (NIM), the notice shall omit the contact of the city clerk and the city's telephone and in place thereof insert the name of the applicant coordinating the meeting and the applicant's phone number; and

9. The legal description or street address of the property subject to the application.

- g. The mailed courtesy notice shall contain a graphic representation of the site's location and surrounding area in sufficient detail to clearly locate the property.

(3) *Advertised public hearing notice.*

- a. *Planning board public hearing; neighborhood information meeting (NIM) notice.* Where the proposed amendment would rezone or change the zoning classification of land in the official zoning atlas or would amend the LDC, the planning board shall hold one public hearing noticed in a newspaper of general circulation at least 15 days prior to the public hearing.

The advertisement shall contain all of the requirements set forth in sub-sections (f)(2)f.2.—9. of this section with a title substantially as follows and advising of a "Notice of Land Use Change." The cost of the legal advertisement shall be the responsibility of the applicant. The city clerk shall place the legal advertisement in a newspaper of general circulation.

In the event of a neighborhood information meeting (NIM), the meeting shall be advertised in a newspaper of general circulation at least 15 days prior to the neighborhood information meeting. The advertisement shall contain all of the requirements set forth in sub-sections (f)(2)f.2.—9. of this section with a title substantially as follows and advising of a "Notice of Land Use Change." The cost of the legal advertisement shall be the responsibility of the applicant. The applicant shall place the legal advertisement in a newspaper of general circulation and supply proof of publication to the director within not more than 15 days after the neighborhood information meeting. The responsibility for the form of the advertisement complying with this provision shall be that of the applicant.

- b. *City council public hearing.* City council public hearings shall be advertised as follows:

1. Applications initiated by other than the city council, planning board, or city manager that change the zoning designation of a parcel or parcels of land in the official zoning atlas shall be enacted pursuant to F.S. § 166.041(3)(a). The advertisement shall contain all of the requirements set forth in subsections (f)(2)f.2.—9. of this section with a title substantially as follows and advising of a "Notice of Land Use Change."
2. Applications initiated by the city council, planning board, or city manager that change the zoning designation of a parcel or parcels of land in the official zoning atlas consisting of ten or more contiguous acres shall be enacted pursuant to F.S. § 166.041(3)(c). The advertisement shall contain all of the requirements set forth in subsections (f)(2)f. and g. of this section. Applications initiated by the city council, planning board, or city manager that change the zoning designation of a parcel or parcels of land in the official zoning atlas consisting of less than ten contiguous acres of land shall be advertised pursuant to F.S. § 166.041(3)(a), and must be noticed as provided in F.S. § 166.041(3)(c)1.
3. Applications that amend LDC provisions other than those provisions that contain the actual list of permitted, conditional, or prohibited uses within a zoning category shall be enacted

pursuant to F.S. § 166.041(3)(a). The advertisement shall contain all of the requirements set forth in subsection (f)(2)f. of this section.

4. Applications that amend the LDC provisions by changing the actual list of permitted, conditional, or prohibited uses within a zoning category shall be enacted pursuant to F.S. § 166.041(3)(c). The advertisement shall contain all of the requirements set forth in subsection (f)(2)f. of this section.

Sec. 30-64. Conditional use procedures.

- (a) *Nature of a conditional use.* A conditional use is a use that would not be appropriate generally or without restriction throughout a particular zoning district or classification, which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, aesthetics, welfare, morals, order of comfort, convenience, appearance, or the general welfare. Such uses may be permissible in a zoning district as a conditional use if specific provision for such conditional use is made in the zoning district. Decisions regarding conditional uses shall be quasi-judicial in nature.
- (b) *Written petition.*
 - (1) A written petition for a conditional use shall be submitted to the director indicating the basis in this zoning code under which the conditional use is sought and stating the grounds upon which it is requested, with particular reference to the types of findings which the city council must make under this section. The petition should include material necessary to demonstrate that the grant of conditional use will be in harmony with the general intent and purpose of this LDC, will be consistent with the comprehensive plan, will not be injurious to the neighborhood or to adjoining properties, or otherwise detrimental to the public health, safety, aesthetics, appearance, or welfare. No petition shall be deemed to be complete for review by the city until the application fee has been paid by the petitioner. Application fees may be set from time to time by resolution of the city council.
 - (2) Material to be submitted by a petitioner with a conditional use application shall include, but is not limited to, the following, where applicable:
 - a. Conceptual site development plans at an appropriate scale with all dimensions in legible format, showing the proposed placement of structures on the property, points of ingress and egress, height of structures, parking locations and parking spaces, architectural elevations of structures, provisions for ingress and egress, off-street parking and off-street loading areas, refuse and service areas, and required yards and setbacks, and other open spaces. The conceptual site development plan shall not be in lieu of, nor eliminate the need for, a site development plan under the land development code;
 - b. Plans showing proposed locations for utilities. Plans providing for screening and buffering with reference as to type, dimensions, and character;
 - c. Proposed landscaping and provisions for trees protected by city regulations;
 - d. Proposed signs and lighting, including type, dimensions, and character;
 - e. Developments shall identify, protect, conserve, and appropriately use native vegetative communities and wildlife habitat. Habitats and their boundaries shall be identified on a current aerial photograph of the property at a scale of at least one inch equals 400 feet. Habitat identification shall be consistent with the state department of transportation land use cover and forms classification system and shall be depicted on an aerial photograph. Information obtained by ground-truthing surveys shall take precedence over photographic evidence; and

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- f. Where this LDC places additional requirements on specific conditional uses, the petitioner shall demonstrate that such requirements are met.
- (3) Concurrent processing of petitions. Where the rezoning of land, as well as grant of conditional use, is requested simultaneously for the same parcel of land, both petitions may be processed concurrently in accordance with the procedures set forth in this article.
- (4) Application annulment. If a petitioner applicant fails to act upon a submitted petition within a 90-day period after receiving written comments from the department, the petition will be deemed withdrawn by the petitioner. The director may extend the 90-day requirement if reasonable progress is being made in revising the petition. For good cause shown or excusable delay, if a request is made in writing during the 90-day period, the director may extend the 90-day period until a reasonable time that the circumstances dictate.

(c) Planning board public hearing.

- (1) **Notice and public hearing.** Notice and public hearing by the planning board shall be as provided for under section **30-62(f)(1), (2), and (3)a.** of this LDC. All testimony given shall be under oath and the action by city council shall be quasi-judicial in nature.