

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY: Committees/Boards/Commissions/Examiners	CODE NUMBER: AC 2-8
TITLE: Notices Required for Local Planning Agency, Hearing Examiner or Board of County Commissioner Public Hearings Involving Land Use Ordinance Amendments or Adoption, Rezonings, D.R.I.'s Special Exceptions, Variances and Appeals of Administrative Decisions	ADOPTED: 12/14/88
	AMENDED: 4/20/94, 8/31/94, 10/18/95, 1/29/97, 3/20/01
	ORIGINATING DEPARTMENT: County Attorney

PURPOSE/SCOPE: This administrative code supplements Section 34-236 of the Lee County Land Development Code (LDC). This code identifies the notice which must be given prior to hearings on those matters described in the LDC.

POLICY/PROCEDURE:

BE IT ORDAINED BY THE COUNTY COMMISSION OF LEE COUNTY, FLORIDA:

- A. As used below, "notice" means a statement of the date, time and place of a hearing. "County" means Lee County Board of Commissioners and its administrative staff. All references to Florida Statutes are intended to include those sections as amended or renumbered. Nothing in this code may be interpreted to extend or expand a party's legal standing beyond the scope of existing Florida law.
- B. Land Use Ordinance Amendments or Adoption.
 - 1. Ordinances which **change the actual list of permitted, conditional, and prohibited uses** within a zoning category.
 - a. Local Planning Agency.

Notice of a public hearing for the Local Planning Agency to review land use ordinances must be published in a newspaper of general circulation in the County on or about seven (7) calendar days prior to the public hearing.
 - b. Board of County Commissioners.

Notice for Board of County Commissioners public hearings must be provided in accordance with Section 125.66, (4)(b) Florida Statutes.
 - 2. All other ordinances which affect the use of land.
 - a. Local Planning Agency.

Notice of a public hearing for the Local Planning Agency to review land use ordinances must be published in a newspaper of general circulation in the County on or about seven (7) calendar days prior to the public hearing.

b. Board of County Commissioners.

Notice for the Board of County Commissioner public hearing must be provided in accordance with Section 125.66(2), Florida Statutes.

C. Board of County Commissioner initiated rezoning of private property, including ancillary variances, and special exceptions.

1. Hearing Examiner Public Hearing.

a. Newspaper Publication.

The County staff must publish Notice of the Hearing Examiner public hearing in a newspaper of general circulation in the County at least ten (10) calendar days prior to the public hearing, unless mailed notice is elected pursuant to section C.1.b.2. below.

b. Mailed Notices.

1.) Parcel or parcels of land involving **less than 10** contiguous acres.

The County will mail a copy of the notice of the Hearing Examiner hearing to:

- A. all property owners whose land the County will rezone as well as all property owners included on the property owner list required as part of the application, and
- B. a courtesy only notice to all known homeowner associations and community organizations in the local community where the property is to be rezoned as determined pursuant to Section D.1.a.1. of this code.

Notices will be sent by regular mail no later than thirty (30) calendar days before the public hearing.

2.) Parcel or parcels of land involving **10 or more** contiguous acres.

In lieu of publication notice the County may mail a copy of the notice of the Hearing Examiner hearing to:

- A. all property owners whose land the County will rezone as well as all property owners on the property owner list required as part of the application, and
- B. a courtesy only notice to all known homeowner associations and community organizations in the local community where the property is to be rezoned as determined pursuant to Section D.1.a.1. of this code.

If the County chooses to mail rather than publish notice, the notices will be sent by regular mail no later than thirty (30) calendar days before the public hearing.

c. Posting.

As a courtesy to adjacent property owners, at least fifteen (15) calendar days before the initial public hearing, the applicant must, in accordance with instructions outlined by the

Department of Community Development (DCD):

- 1.) post the sign(s) supplied by DCD indicating the action requested by the applicant, the date of the initial public hearing and the county assigned case number,
- 2.) make a good faith effort to maintain the sign(s) in accordance with the instructions supplied along with the sign(s) in place(s) selected to provide maximum visibility and exposure to the public, and in readable condition until the requested action has been heard and a final decision rendered, and
- 3.) prior to the initial public hearing on its case, submit the affidavit provided attesting to the applicant's compliance with all of the requirements for posting.

2. Board of County Commissioner Hearings.

a. Newspaper Publication.

Notice of proposed rezonings must be provided in accordance with Section 125.66 (4) (a) Florida Statutes if less than 10 contiguous acres are involved in the proposed rezoning. In all other cases, notice must be provided in accordance with Section 125.66(4)(b), Florida Statutes.

b. Mailed Notice.

The County will mail a copy of the notice of the Board hearing to all parties of record, including the actual real property owners, no later than thirty (30) calendar days prior to the initial hearing if less than 10 contiguous acres are involved in the rezoning. Notice will be sent by regular mail.

If 10 or more contiguous acres are to be rezoned, the County may choose to notify each person owning real property within the area of the rezoning by mail as set forth in Section 125.66 (4)(b)(3), Florida Statutes (1996), but mailed notice is not mandatory in these cases. If the County mails notice in the case of 10 or more contiguous areas, publication notice is not required.

c. Posting.

The applicant must post the sign(s) in the same manner as set forth in Section C.1.c. of this code.

D. Owner initiated rezoning and rezoning of County owned property (includes attendant variances and special exceptions).

1. Hearing Examiner Public Hearing.

a. Courtesy Notice Mailed Upon Receipt of a Zoning Application.

- 1.) Within 15 working days after receiving a new zoning application the County will mail a courtesy notice to all property owners included on the property owner list required as part of the application, and to those homeowner associations or similar community organizations in the local community where the project is proposed that have requested

notice pursuant to Section D.1.a.4. of this code. The notice will be sent regular mail. The notice must include the following:

- A.) the general location or street address (if available) of the subject property (a specific legal description is not required); and
 - B.) an area location map, at a suitable scale, depicting the subject property in relation to the surrounding neighborhood, sufficiently referenced to known major streets or other physical boundaries in the surrounding area so as to be clearly identifiable to the general public; and
 - C.) the name and telephone number of the property owner or the property owner's representative or agent; and
 - D.) the name and telephone number of the DCD staff person who can answer questions concerning the application; and
 - E.) the location where the application file is available for public inspection; and
 - F.) a brief description of the substantive request with sufficient detail to advise the public as to what the application may encompass.
- 2.) For purposes of notice to time share unit owners included on the property owner list required as part of the application, notice will be sufficient if mailed to the time share association and not to the individual unit owners.
 - 3.) The applicant must prepay the cost of providing notice in accordance with this code as a condition of filing the application.
 - 4.) DCD will collect and maintain a list of interested homeowner associations and similar organizations for the local community areas in Lee County. The list will be for use in providing courtesy notice of pending projects within the local community area of the County where the project is located. DCD is not required to solicit organizations to create local community lists.
 - 5.) Notice to all property owners included on the property owner list required as part of the application, and to those homeowner associations or similar community organization in the local community where the project is proposed is a courtesy only and is not jurisdictional. Accordingly, the County's failure to mail or to timely mail such notice or failure of any property owner included on the property owner list required as part of the application, or any local homeowner association or local community organization, to receive mailed notice will not constitute a defect in notice or bar the public hearing as scheduled.
- b. Newspaper Publication.
1. The County must publish notice of the Hearing Examiner public hearing in a newspaper of general circulation in the County at least ten (10) calendar days prior to the public hearing. The notice must include the following:
 - A.) the location and street address (if available) of the subject property (a specific

legal description is not required); and

- B.) the name and telephone number of the property owner or the property owner's representative or agent; and
- C.) the name and telephone number of the DCD staff person assigned to the case who can answer specific questions concerning the application; and
- D.) a description of the substantive request with sufficient detail so as to advise the public as to what the application may encompass, but it need not describe the proposed plans or details thereof; and
- E.) the date, time and place of the hearing, and
- F.) state the place in the County where the application and project file may be inspected by the public; and
- G.) a statement advising that interested parties may appear at the hearing and be heard with respect to the proposed application.

c. Mailed Notices.

As a courtesy, the County will mail a copy of the notice of the Hearing Examiner hearing to all property owners included on the property owner list required as part of the application, and to those local homeowner associations and local community organizations referenced in Section D.1.a.1. of this code. Notices will be sent by regular mail no later than ten (10) calendar days before the public hearing.

- 1.) For purposes of notice to time share unit owners included on the property owner list required as part of the application, notice will be sufficient if mailed to the time share association and not to the individual unit owners.
- 2.) The applicant must prepay the cost of providing notice in accordance with this code as a condition of filing the application.

d. Posting.

The applicant must post a sign in the same manner as set forth in Section C.1.c. of this code.

2. Board of County Commissioner Hearing

a. Newspaper Publication.

The County must publish notice of the Board of County Commissioner public hearing in a newspaper of general circulation in the County in accordance with 125.66(2)(a) at least ten (10) calendar days prior to the public hearing. The notice must include the property owner, location and substance of the proposed request. The notice must also include the date, time, and place of the hearing and state the place in the County where the file may be inspected by the public. The notice must also advise that interested parties may appear at the hearing, but only parties of record may be heard with respect to the proposed application.

b. Mailed Notice.

The County will mail notice of the public hearing to all parties of record in the Hearing Examiner proceeding at least ten (10) calendar days prior to the Board's consideration of the matter.

c. Posting.

The applicant must post the sign(s) in the same manner as set forth in Section C.1.c. of this code.

E. Variances and Special Exceptions not attendant to a rezoning.

Newspaper publication, mailed notices and posting of the Hearing Examiner public hearing must be provided in the same manner as set forth in Sections D .1.a., b., c. and d. of this code.

F. Developments of Regional Impact (D.R.I.)

The County and the applicant must provide all notices in accordance with Section D. of this code. In addition, any other notices or time limits, must be complied with as required pursuant to Section 380.06(11), Florida Statutes, as may be amended.

G. Mailed notice to homeowner associations, community organizations and property owners within 500* feet is a courtesy only and is not jurisdictional. Accordingly, the County's failure to mail or to timely mail such notice or failure of any property owners included on the property owner list required as part of the application or any local homeowner association or local community organization to receive mailed notice will not constitute a defect in notice or bar the public hearing as scheduled.

***NOTE: In those instances where fewer than 10 owners of property would be notified, the distance must be expanded to include all owners of property within 750 feet.**

H. Appeal of Administrative Decisions.

1. Newspaper Publication.

The County must publish Notice of the Hearing Examiner public hearing in a newspaper of general circulation in the County at least ten (10) calendar days prior to the public hearing.

2. Mailed Notice.

The Office of the Hearing Examiner must provide written notice of the Hearing to the applicant, the County Attorney and the County Administrator by hand delivery or by regular mail no later than ten (10) calendar days before the hearing.

[END OF PROVISIONS]