
Sec. 94-39. - Public hearing.

- a. *Scheduling the hearing.* Upon determination by the planning director, or designee, that all applications for any action requiring a public hearing have been completed and filed, the appropriate reviewing authority shall be notified in order to schedule and provide appropriate notice of a public hearing in accordance with the provisions of this chapter.
- b. *Public inspection of records.* Applications submitted pursuant to the provisions of this chapter may be reviewed by the public or by any interested citizen, according to the provisions of F.S. Ch. 119.
- c. *Conduct of the hearing.*
 1. *Rights of all persons.* Any person may appear at a public hearing and submit documents, materials, and other written or oral testimony individually or as a representative of an organization. Persons who appear at a public hearing shall state their names, addresses, and the names and mailing addresses of any organizations they represent. The body conducting the public hearing may place reasonable time restrictions on the presentation of testimony and the submission of documents and other materials.
 2. *Oaths.* All persons presenting evidence at a public hearing shall swear or attest that their statements are true. During a public hearing, all parties shall have all of the following rights:
 - a. The right to be represented by a counsel or by an agent.
 - b. The right to present witnesses.
 - c. The right to cross-examine all witnesses.
 - d. The right to cross-examine and reproduce any documents produced at the hearing. Such rights shall be subject to the discretion of the body conducting the hearing and may be limited if unwarranted or undue delay will result or where no new materials or testimony will be presented.
 3. *Failure to appear.* An applicant's failure to appear or to be represented at a scheduled hearing shall be sufficient cause to deny the request.
- d. *Withdrawal, continuation or resubmittal of applications.*
 1. *Withdrawal of applications.*
 - a. Any application for an amendment to the text of this chapter or the official zoning map, for a comprehensive plan consistency review, for a site plan review, an approval of a special use, for an appeal, or for a variance authorization may be withdrawn by an applicant or designated representative by giving written notice to the planning director, or designee. An application may be withdrawn at a public hearing at the request of the applicant or designated representative. After the conclusion of the public hearing concerning an application, it may be withdrawn only upon a majority affirmative vote of the review authority.
 - b. An application for any approval required by this chapter may be amended prior to the publication of notice of public hearing. A written request for amendment to the application shall be made in writing, to the planning director, or designee. A request of this nature shall require an additional amendment processing fee. Such applications for change shall be considered new applications and shall be considered at the next appropriate public hearing.
 2. *Continuation of applications.* Any application may be continued for a period not to exceed 60 days at the request of the city commission, planning board, zoning board of appeals, or planning director, or designee, if the authority requesting the continuation determines there is need for further study or information.
 3. *Resubmittals.* When an application for an amendment to the text of this chapter or the official zoning map, for approval of a special use, or for a variance authorization is denied by the appropriate review authority, an application affecting the same property and requesting the same change shall not be resubmitted for a period of 12 months following the denial. The review authority may waive this provision if new circumstances or material changes affect the application.
- e. *Records of proceedings.*

1. *Records maintained by city.* All records of any proceedings of the city commission, the planning board, the zoning board of appeals, the downtown action committee, and the plans and plats review committee shall be filed as a part of the public records of the city.
 2. *Official minutes maintained.* Minutes of proceedings shall be kept, in which findings of fact, recommendations, and all determinations or decisions are to be recorded. These minutes shall be considered public records and maintained by the city.
 3. *Use of recording devices.* All proceedings of the city commission, the planning board, the zoning board of appeals and the downtown action committee, shall be recorded electronically. Upon request and during normal business hours, any person may listen to the recordings of any proceedings. Transcriptions of proceedings may be obtained at the expense of the individual requesting such information.
 4. *Application records maintained.* Application forms and all information submitted with each application shall be maintained by the planning and zoning department. Any transcript of testimony, the minutes of proceedings, all applications, exhibits, documents, materials, and papers submitted to a reviewing or decision-making body, written reports of any municipal employee or consultant, and the decision and report of the reviewing or decision-making body shall constitute the record. Person may examine the record during normal business hours and obtain copies at their expense.
- f. *Action by decision-making authority.* All decision-making authorities shall render their decisions within a reasonable period as provided in this chapter. All actions of any reviewing or decision-making authority shall include the recommendation or decision and the reason for the action.
- g. *Notification.* Notification of the final decision on an application shall be mailed to the applicant. A copy of the final decision shall be filed in the planning and zoning department.
- h. *Reconsideration of action.*
1. *City commission.* An action may be reconsidered by the city commission under either of the following circumstances:
 - a. If only four members vote on a decision and the vote is tied, a motion to reconsider may be made by any member of the city commission at the next meeting at which all five commissioners are present;
 - b. On any decision other than that described in subsection (h)(1)(a) of this section, a motion to reconsider may be made only by a city commission member who voted on the prevailing side.
 2. *Planning board, zoning board of appeals and downtown action committee.* An action may be reconsidered by the planning board, the zoning board of appeals, or the downtown action committee only upon a motion of a member of either body who voted on the prevailing side of the original vote. The motion must be made at the same or the next regular meeting. A motion to reconsider may be seconded by any member.
 3. *Notice.* Action on a question pending reconsideration must follow the notice applicable to the public hearing at which the original decision was made.
- i. *General standards for notice required for public hearing.* Unless otherwise required by subsection (k) of this section, notice for public hearings shall conform to the following general standards:
1. *Content of notice.* Notice of each public hearing shall include the date, time, and location of the hearing, a description of the substance of the subject matter that will be discussed, a description of the general location of the properties directly affected, the name of the body conducting the hearing, a brief statement of the action the body conducting the hearing is authorized to take, and a statement that the hearing may be continued from time to time as may be necessary. Written notices provided by mail shall include a map which indicates the location of the proposed action.
 2. *Newspaper advertisements.* Advertising required by this section shall be published in a newspaper of general circulation. Applicants shall pay for costs incurred by the city to advertise the scheduled public hearing.
 3. *Written notices.* The names and addresses of property owners to be provided written notice required by this section shall be obtained from the most current official ad valorem tax roll. The applicant shall provide, in a form determined by the city, a certified list of all property owners to be notified. The applicant also shall provide sufficient funds to defray the cost to mail the required notice. If the owner of a condominium is to be provided written notice, the condominium association must be provided notice.
 4. *Public inspection.* A copy of the notice of public hearing shall be available in the planning and zoning department during regular business hours.
 5. *Posting of property.* Property affected by an application that requires action by the planning board or the city commission shall be posted as provided below.

- a. *Signs.* Signs shall be provided by the applicant at a size generally at a minimum of three feet in width and four feet in length, with specific language provided by the planning department.
- b. *Posting.* The property shall be posted by the applicant no further than 15 feet from the frontage property line, or as specified by the planning department based on site constraints. The failure of any such posted notice to remain in place after it has been posted shall not be deemed a failure to comply with this requirement or be grounds to challenge the validity of any decision made by the approving authority.
- c. *Installation.* Signs shall be posted in a workmanlike manner, able to withstand normal weather events.
- d. *Minimum posting requirements.* Privately-initiated applications require that at least one sign be posted per 500 lineal feet of all property located along a public right-of-way, with a minimum of one sign per frontage, or as otherwise required by the planning and zoning administrator based on site constraints. In the event of unique circumstances affecting a property, additional signs shall be posted as required by the planning and zoning administrator. City-initiated applications require that one sign be posted per frontage along a public right-of-way at a size provided by the public works department.
- e. *Deadline.* Signs shall be posted at least 15 days prior to the first public hearing.
- f. *Affidavit.* An affidavit, including photographs, attesting to the date of installation and number of signs installed shall be provided by applicant to the planning department at least five days prior to the public hearing.
- g. *Removal.* The applicant shall remove the posting no more than 30 days after the final city commission decision on the subject application.
- h. *Exceptions to posting.* The posting requirement shall not apply to city-initiated future land use map amendments and re-zonings which will impact more than four parcels.
- j. *General procedures for notice of public hearings.*
 - 1. *Planning board.* Public notice shall be advertised in a newspaper of general circulation in the city at least ten days in advance of the public hearing. Written notice shall be provided by mail at least 14 days in advance of the public hearing to all affected property owners, all affected neighborhood and business organizations whose addresses are kept on file with the planning and zoning department and all persons who own real property within 500 feet of the property to be affected by the proposed action and whose addresses are known by reference to the latest approved ad valorem tax roll.
 - 2. *City commission.* Public notice shall be advertised in a newspaper of general circulation in the city at least ten days in advance of the public hearing for adoption of the action, except for the items listed in subsection 94-39(k), which shall follow the specific requirements of Florida Statutes. Written notice shall be provided by mail at least 30 days in advance of the public hearing to all affected property owners, all affected neighborhood organizations whose addresses are kept on file with the planning and zoning department and to all persons who own real property within 500 feet of the property to be affected by the proposed action and whose addresses are known by reference to the latest approved ad valorem tax roll.
 - 3. *Zoning board of appeals.* Public notice shall be advertised in a newspaper of general circulation in the city at least ten days in advance of the public hearing. Written notice shall be provided by mail at least 14 days in advance of the public hearing to all affected property owners, all affected neighborhood organizations whose addresses are kept on file with the planning and zoning department and all persons who own real property within 500 feet of the property to be affected by the proposed action and whose addresses are known by reference to the latest approved ad valorem tax roll.
 - 4. *Downtown action committee.* Public notice shall be advertised in a newspaper of general circulation in the city at least ten days in advance of the public hearing. Written notice shall be provided by mail at least 14 days in advance of the public hearing to all affected property owners, all affected neighborhood and business organizations whose addresses are kept on file with the planning and zoning department and all persons who own real property within 500 feet of the property to be affected by the proposed action and whose addresses are known by reference to the latest approved ad valorem tax roll.
- k. *Additional standards and procedures for notice of public hearing.* Public hearing notification standards and procedures for the types of applications listed in this subsection shall conform to the following requirements:
 - 1. *Adoption of or amendments to the comprehensive plan and future land use map.* Notification procedures shall conform to F.S. § 171.044, F.S. § 380.06, F.S. § 166.041, F.S. § 163.3184 or § 163.3187.

2. *Ordinances that change the actual list of permitted, conditional, or prohibited uses within a zoning category, or ordinances initiated by the city that change the actual zoning map designation of a parcel or parcels of land.* Notification procedures shall conform to F.S. § 166.041.
3. *Voluntary annexations.* Notification procedures shall conform to F.S. § 171.044.
4. *Involuntary annexations.* Notification procedures shall conform to F.S. §§ 171.0413, 171.042 and 166.041.
5. *Development agreements.* Notification procedures shall conform to F.S. § 163.3225 and code subsection 94-43(b)(3).
6. *Developments of regional impact.* Notification procedures shall conform to F.S. § 380.06.

(Code 1979, § 33-19; Ord. No. 4094-07, § 1, 11-3-2007; Ord. No. 4357-11, § 1, 9-6-2011; Ord. No. 4449-13, § 5, 3-19-2013; Ord. No. 4613-16, § 1, 2-1-2016; Ord. No. 4633-16, § 1, 5-23-2016)