

**ADMINISTRATIVE CODE  
BOARD OF COUNTY COMMISSIONERS**

<b>CATEGORY:</b> Development/Planning/Zoning	<b>CODE NUMBER:</b> AC-13-7
<b>TITLE:</b>  Public Participation Procedures Relating to Comprehensive Plan Amendments	<b>ADOPTED:</b> 1-25-89
	<b>AMENDED:</b> 1-4-99; 7-24-01; 1-28-03; 10-11-05; 09-27-11
	<b>ORIGINATING DEPARTMENT:</b> County Attorney

**PURPOSE/SCOPE:**

It is the intent of the Florida Legislature and the Lee County Board of Commissioners that the public participate in the comprehensive planning process to the fullest extent possible. Toward this end, the County adopts the procedures set forth below that are designed to provide effective public participation in the comprehensive planning process and to provide real property owners with notice of all official actions which will regulate the use of their property.

**POLICY/PROCEDURE:**

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

The following procedures are established by the Board of County Commissioners of Lee County, Florida, pursuant to Florida Statutes, so as to provide for public participation in the Comprehensive Plan Amendment Process.

**A. NOTICE**

1. Notice to Real Property Owners of Official Actions that will Affect Their Property

Real property owners must be put on notice of proposed Lee County Comprehensive Plan Amendments that will affect the use of their property by the methods set forth in Chapter 163, Part II, Florida Statutes, and Lee County Administrative Code 13-6.

2. Notice to the General Public

The general public must be kept informed of amendments to the Lee County Comprehensive Plan through the notice provisions provided for in Chapter 163, Florida Statutes, Lee County Administrative Code 13-6, and as set forth below:

- a) Notice of an Application to Amend the Future Land Use Classification of Property.
  - i. Within 15 working days after finding an application to amend the Future Land Use Classification of Property sufficient for review, the County will send via electronic mail or regular mail, a Notice to all property owners within 500\* feet of the property subject to the proposed change, and to those homeowners associations or similar community organizations in the local community where the amendment to the Future Land Use Map is proposed. The Notice will be sent by regular mail. The Notice must

\*Where there are less than 10 property owners within 500 feet of the property subject to the proposed amendment to the Future

Land Use Classification, mailed notice will be provided to all property owners within 750 feet of the subject property.

include the following:

- (1) the general location or street address (if available) of the subject property (a specific legal description is not required); and,
  - (2) an area location map, at a suitable scale, depicting the subject property in relation to the surrounding neighborhood, sufficiently referenced to known major street or other physical boundaries in the surrounding area so as to be clearly identifiable to the general public; and,
  - (3) the name and telephone number of the property owner or the property owners representative or agent; and,
  - (4) the name and telephone number of the DCD staff person who can answer questions concerning the application; and,
  - (5) the location where the application file is available for public inspection; and,
  - (6) a brief description of the substantive request with sufficient detail to advise the public as to what the application may encompass.
- ii. For purposes of Notice to timeshare unit owners included on the property owner list required as part of the application, Notice will be sufficient if mailed to the timeshare association and not to the individual unit owners.
  - iii. The applicant must provide the County with a variance report that identifies all property owners within the area described in Section A.2.a)i, including mailing labels.
  - iv. 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 future land use map amendments 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.
  - v. In the event the variance report demonstrates more than 100 property owners within 500 feet of the property, written notice of the application will only be sent to the entities identified in Section A.2.a)iv, above.

b) Posting.

At least 15 calendar days before the Local Planning Agency hearing, the applicant must, in accordance with the instructions outlined by the Department of Community Development (DCD):

- i. Post the sign supplied by DCD indicating the action requested by the applicant, the date of the Local Planning Agency hearing, and the County assigned case number; and,
- ii. Make a good-faith effort to maintain the signs in accordance with the

instructions supplied along with the signs in places selected to provide maximum visibility and exposure to the public, and in readable condition until a final decision has been rendered on the requested action; and,

- iii. Prior to the Local Planning Agency hearing on the proposed amendment, submit an Affidavit attesting to the applicant's compliance with the posting requirements; and,
- iv. The signs must remain in place until after the final Board adoption hearing on the application to amend the future land use classification of the subject property.
- v. The County will post notice of pending amendments to the Future Land Use Map on the County website at least 15 calendar days before the Local Planning Agency hearing on the proposed change.
- vi. Posting is not required for County Initiated Amendments that seek to change the property's Future Land Use category to Conservation Lands. In lieu of posting, the County will provide notice to community groups in the vicinity of the property that have requested notification of pending Plan Amendments.

c) Notice of Board of County Commissioner Hearings. The County will mail a copy of the notice of the Board Transmittal and Adoption Hearings to those local homeowner associations and local community organizations referenced in Section A.2.a.iv. of this Code, in addition to all members of the public who attended the LPA hearing on the proposed amendment, as well as individuals requesting written notice of future hearings on the proposed amendment to the Future Land Use Classification. Notices will be sent by regular mail no later than 10 calendar days before the public hearing.

d) The applicant must prepay the cost of providing all mailed notices in accordance with this Code.

3. Posted and Mailed Notices, described in Section A.2. above are provided as a courtesy to the public and are not jurisdictional. Accordingly, the County's failure to post, mail, or to timely mail such notice or a property owner's failure to receive mailed notice will not constitute a defect in notice or bar the public hearing from proceeding as scheduled.

## B. PUBLIC COMMENTS TO PROPOSED LEE COUNTY COMPREHENSIVE AMENDMENTS

### 1. Written Comments

The public may provide written comments on proposed Comprehensive Plan Amendment before the date of a public hearing at which consideration of the amendment is scheduled. Written comments may be submitted to the Director of Planning. Written comments may also be presented at any public hearing provided that the commentator supplies at least ten (10) copies of such comments to LPA, or to the Board of County Commissioners, whichever is applicable, so as to ensure sufficient distribution of the comments to necessary persons for review, analysis and consideration.

### 2. Oral Comments

The public may provide oral comments on a proposed amendment at any public hearing on the amendment. The right to comment will be subject to reasonable time limits

imposed by the Chairman. Comments that are irrelevant, immaterial, repetitive, spurious, defamatory, or out of order, will not be allowed.

C. CONSIDERATION OF AND RESPONSE TO PUBLIC COMMENT

The Board of County Commissioners will consider public comments, prior to the final vote on a particular proposed amendment. Oral comments made only before the LPA need not be reviewed by the Board unless the commentator supplies the Board with a transcript of those oral comments. To the extent possible, staff will incorporate public comments into their analysis for presentation to the Board of County Commissioners. The final actions taken by the LPA and by the Board of County Commissioners will constitute their response to all public comments.