

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY: Development/Planning/Zoning	CODE NUMBER: AC-13-7
TITLE: Public Participation Procedures Relating to Comprehensive Plan Amendments	ADOPTED: 1/25/89
	AMENDED: 1/4/99; 7/24/01; 1/28/03; 10/11/05
	ORIGINATING DEPARTMENT: 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 Section 163.3181, Florida Statutes, and Rule 9J-5.004, Florida Administrative Code, 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, Part II, 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 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**

*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.

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the Future Land Use Map is proposed. The Notice will be sent by regular mail. The Notice must 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. The applicant must prepay the cost of providing Notice in accordance with this Code as a condition of sufficiency.
- 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):

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- 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.
 - 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.
 - i. The applicant must prepay the cost of providing all mailed notices in accordance with this Code as a condition of scheduling the item for consideration by the Board.
3. Posted and Mailed Notices, described in Section A.2. above is a courtesy to the public and is not jurisdictional. Accordingly, the County's failure to post, mail, or to timely mail such notice or failure to receive mailed notice will not constitute a defect in notice or bar the public hearing 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 at any time up to and including three (3) days 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. Upon receiving a written comment, the Director of Planning will acknowledge its receipt by returning a letter of receipt to the commentator. Written comment 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. The County will also forward the name and address of any person who submits written comments on the proposed plan or plan amendment during the time period between the commencement of the transmittal hearing and the end of the adoption hearing to DCA at the time of the adopted amendment.

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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.

3. Those persons submitting oral comments who provide their names and addresses to the County on the sign-in form provided in the Chambers will be included on a list prepared by the Director that will be forwarded to DCA at the time of transmittal of the adopted amendment.

4. Persons who submit written comments or who provide their name and address on the sign-in form will receive a courtesy informational statement from DCA that includes the name of the newspaper where the Notice of Intent will appear, the approximate date of publication, the ordinance number of the plan amendment, and a statement that affected persons have 21 days after the actual date of publication of the notice to file a petition.

C. CONSIDERATION OF AND RESPONSE TO PUBLIC COMMENT

The Board of County Commissioners will review all public comments, written and oral, prior to its 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. However, their response may be supplemented as the record shall reflect.