PROPOSED

ORDINANCE NO. 2018-

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, PERTAINING TO ZONING NOTICES; AMENDING SECTIONS 39-27, 39-38, 39-42, AND 39-44 OF THE BROWARD COUNTY CODE OF ORDINANCES ("CODE"); PROVIDING FOR NOTICE OF PUBLIC HEARINGS, QUASI-JUDICIAL HEARINGS, AND ORDERS RELATED TO REZONINGS, VARIANCES, ADMINISTRATIVE DECISIONS, AND APPEALS OF ADMINISTRATIVE DECISIONS; AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

(Sponsored by Vice-Mayor Mark D. Bogen)

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA:

Section 1. Section 39-27 of the Broward County Code of Ordinances is hereby amended to read as follows:

Sec. 39-27. Notices of public hearing.

(a) All notices of public hearing for rezonings, amendments to the zoning code, and amendments to development orders for developments of regional impact shall be in accordance with Chapter 125, Florida Statutes.

(b) In addition to the requirements of State law, written notice of a public hearing for any rezoning request ~~or development of regional impact~~ shall be ~~mailed via regular first class mail~~ provided by the County at least ~~ten (10)~~ twenty (20) days prior to the public hearing~~(s)~~ in accordance with the following:

(1) For all County-initiated petitions for rezoning, notice shall be ~~sent~~ mailed via regular first class mail to all property owners within the petitioned area and within a radius of three hundred (300) feet of the perimeter of the petitioned

area, ~~all property owners~~ and the mayor, commissioners, and city manager of any municipality within Broward County and within a radius of three hundred (300) feet ~~from~~ of the perimeter of the petitioned area; ~~or~~

(2) For all owner-initiated petitions for rezoning, notice shall be ~~sent~~ mailed via regular first class mail to all property owners within a radius of three hundred (300) feet of the perimeter of the petitioned area, and the mayor, commissioners, and city manager of any municipality within Broward County and within a radius of five hundred (500) feet of the perimeter of the petitioned area, except that such radius shall be extended to one thousand (1,000) feet when any such request is in or contiguous to any Rural, Estate, or Agricultural district, or any Wellfield Zone of Influence, as depicted in the adopted Wellfield Protection Zones of Influence maps; ~~and~~ or

(3) For all County-initiated or owner-initiated petitions for rezoning of property used, or to be used, as a dump, sanitary landfill, incinerator, or resource recovery facility:

a. Notice shall be mailed via regular first class mail to the mayor, commissioners, and city manager of any municipality within Broward County and within a radius of four (4) miles of the perimeter of the petitioned area;

b. Email notification shall be provided to the County Commissioners of districts for which any portion of the district is within a radius of four (4) miles of the perimeter of the petitioned area; and

c. Email notification shall be provided to the board members of condominium and homeowners' associations within Broward

County and within a radius of four (4) miles of the perimeter of the petitioned area who sign up with Broward County to receive email notifications, and any other person who lives within Broward County and within a radius of four (4) miles of the perimeter of the petitioned area and who signs up with Broward County to receive email notifications. The notifications provided under this Section c are courtesy notifications and shall not affect the validity of any action taken relative to an application under this part, and failure to receive such notification shall not give rise to a cause of action challenging such application; and

(4) ~~Such~~ All notices, including sign notices, shall include the rezoning petition number, location and description of the subject property, current zoning, proposed zoning, the date, time, and place of the hearing, a phone number for the Planning and ~~Environmental Regulation~~ Development Management Division, or successor agency, and an explanation of the request; and

~~(4)~~ (5) Property owners and addresses for notice shall be determined in accordance with the current tax roll of Broward County, Florida, unless there is actual knowledge of a subsequent property owner; and

~~(5)~~ (6) In the event the notification area for a petition for rezoning of property that is not used, or not to be used, as a dump, sanitary landfill, incinerator, or resource recovery facility includes land declared to be a condominium or homeowners' association under Chapter 718 or 720, Florida Statutes, then

notice to the condominium or homeowners' association shall constitute notice; and

~~(6)~~ (7) At least ~~ten (10)~~ twenty (20) days prior to any public hearing, the County shall post a sign upon the property so as to face, and be visible from, the street upon which the property is located. The sign shall be a minimum of three (3) feet by four (4) feet in size and shall state the following:

NOTICE OF PUBLIC HEARING

REZONING

The sign shall include the information required by S~~ubs~~ection (b)~~(3)~~(4) above. The Planning and ~~Environmental Regulation~~ Development Management Division, or successor agency, shall provide a notarized affidavit to the Board of County Commissioners stating that the sign was posted on the appropriate date. No permit shall be required for such sign.

The sign shall remain posted on the property until a decision on the petition has been made by the Board of County Commissioners.

(c) No public hearing shall be commenced by the Board of County Commissioners unless an affidavit of proof of required notice publications, posting, and mailing (~~if applicable~~ including emailing) is presented to the Board of County Commissioners for review and submitted to the County Administrator, or designee, for filing with the minutes of the meeting.

Section 2. Section 39-38 of the Broward County Code of Ordinances is hereby amended to read as follows:

Sec. 39-38. Notices.

. . .

(b) *Notice to surrounding properties and others:* For any property for which a variance is requested or ~~which~~ that is the subject of an appeal of an administrative decision, notice shall be provided by the County to surrounding properties and others as follows:

(1) a. All owners of property within a radius of five hundred (500) feet of the ~~property line~~ perimeter of the petitioned area shall be mailed notification of the hearing by regular first class mail sent at least ~~ten (10)~~ twenty (20) days prior to any hearing. In the event a requested variance is for the waiver of a required distance separation between uses which is greater than five hundred (500) feet, all property owners within the radius of the required distance separation shall be notified of the hearing by regular first class mail sent at least ~~ten (10)~~ twenty (20) days prior to any hearing; ~~or~~

b. If the property is in or is contiguous to any rural, estate, or agricultural district, all owners of property within a radius of one thousand (1,000) feet of the ~~property line~~ perimeter of the petitioned area, or the next two (2) adjacent properties, whichever distance is greater, shall be mailed notification of the hearing by regular first class mail sent at least ~~ten (10)~~ twenty (20) days prior to any hearing~~.~~; or

c. If the variance or appeal is related to property used, or to be used, as a dump, sanitary landfill, incinerator, or resource recovery facility, email notification shall be provided to the board members of all

condominium and homeowners' associations within Broward County and within a radius of four (4) miles of the perimeter of the petitioned area who sign up with Broward County to receive email notifications, and any other person who lives or owns property within Broward County and within a radius of four (4) miles of the perimeter of the petitioned area who signs up with Broward County to receive email notifications. The notifications provided under this Section c are courtesy notifications only and shall not affect the validity of any action taken relative to a variance or appeal under this part, and failure to receive such notification shall not give rise to a cause of action challenging action taken related to the variance or appeal.

(2) The mayor, commissioners, and the city manager of any municipality within Broward County and within a ~~two (2)~~ four (4) mile radius of the ~~property line of any property~~ perimeter of the petitioned area (other than a single family dwelling property) for which a variance is requested or ~~which~~ that is the subject of an appeal of an administrative decision shall be mailed notification of the hearing by regular first class mail sent at least ~~thirty (30)~~ twenty (20) days prior to any hearing.

(3) Email notification shall be provided to the County Commissioners of districts for which any portion of the district is within a radius of four (4) miles of the perimeter of the petitioned area.

~~(3)~~ (4) Any unincorporated area neighborhood or civic organization within a ~~one (1)~~ four (4) mile radius of the ~~property line~~ perimeter of the ~~property~~ petitioned area shall be ~~mailed~~ provided with email notification of the

hearing ~~by regular first class mail sent~~ at least ~~thirty (30)~~ twenty (20) days prior to any hearing. The neighborhood or civic associations receiving such notice shall be those listed on the "Neighborhood Association/Civic Representatives List for the Unincorporated Area" and as delineated on the "Unincorporated Neighborhood Map." The neighborhood list and map shall be available for public inspection, and changes may be made by the Director of the Planning and ~~Environmental Regulation~~ Development Management Division.

~~(4)~~ (5) In the event a requested variance involving commercial or industrial property is within one thousand (1,000) feet of a Wellfield Zone of Influence, as depicted in the adopted Wellfield Protection Zone of Influence maps, the operator of such wellfield shall be mailed notification by certified mail, return receipt requested.

~~(5)~~ (6) In the event the notification area for a variance or appeal related to property that is not used, or not to be used, as a dump, sanitary landfill, incinerator, or resource recovery facility includes land declared to be a condominium or homeowners' association under Chapter 718 or 720, Florida Statutes, then notice to the condominium or homeowners' association shall constitute notice.

~~(6)~~ (7) At least ~~ten (10)~~ twenty (20) days prior to the hearing, the County shall post a sign upon the property so as to face, and be visible from, the street upon which the property is located. The sign shall be a minimum of three (3) feet by four (4) feet in size, shall include the information required by S~~ubs~~ection (c) below, and shall state the following:

NOTICE OF QUASI-JUDICIAL PUBLIC HEARING

VARIANCE OR APPEAL OF ADMINISTRATIVE DECISION

The Division shall provide a notarized affidavit to the hearing officer stating that the sign was posted on the appropriate date. No permit shall be required for such sign. The sign shall remain posted on the property until an order has been rendered by the hearing officer.

~~(7)~~ (8) At least ~~thirty (30)~~ twenty (20) days prior to the hearing before the hearing officer, notice of the hearing shall be given, in writing, to each County Commissioner and to the County Administrator. In addition, a copy of the application shall be forwarded to the Commissioner representing the County Commission district within which the property is located.

. . .

Section 3. Section 39-42 of the Broward County Code of Ordinances is hereby amended to read as follows:

Sec. 39-42. Conditions, limitation, and notice to the Board of County Commissioners.

. . .

(b) In rendering a decision on any appeal from an administrative decision, the hearing officer may modify or reverse any interpretation of the zoning official. A violation of any modification, when made a part of the findings, shall be considered a violation of the section of the Code ~~which~~ that was the subject of the appeal, and shall be subject to enforcement ~~procedures in~~ pursuant to ~~s~~Section 39-10 and ~~c~~Chapter 8½ of the Broward County Code of Ordinances.

(c) Within seven (7) days ~~from~~ after the final finding and determination on any variance or appeal of an administrative decision, the Director of the Division shall forward a copy of any order authorizing or denying a variance or any decision approving, modifying, or reversing any decision or determination of the zoning official, consistent with the notice provisions of Section 39-38, to each member of the Board of County Commissioners, ~~to~~ the County Administrator, surrounding property owners, mayors, city managers, unincorporated area neighborhood or civic associations, ~~and~~ condominium and homeowners' associations ~~as set forth within Subsections 39-38(b)(1) through (5)~~, and persons who signed up to receive email notifications, and to any interested person who was present at the hearing below and who requested a copy of the hearing officer's order. The email notifications provided under this part pursuant to Section 39-38(b)(3)c are courtesy notifications only and shall not affect the validity of any action taken relative to a variance or appeal of an administrative decision, and failure to receive such notification shall not give rise to a cause of action challenging the hearing officer's order.

Section 4. Section 39-44 of the Broward County Code of Ordinances is hereby amended to read as follows:

Sec. 39-44. Appeals to orders of the hearing officer.

. . .

(b) *Notice of appeal to the Board of County Commissioners:* The Director of the Division shall provide notice of the appeal hearing, as set forth in Section 39-38, to surrounding property owners ~~as set forth within Subsection 39-38(b)(1). The Director of the Division shall also provide notice required by Subsections 39-38(b)(2), (3), (4), and (5) to~~, mayors, city managers, unincorporated area neighborhood or civic

associations, wellfield operators, ~~and~~ condominium and homeowners' associations, and persons who signed up to receive email notifications, as applicable, at least ~~ten (10)~~ twenty (20) days prior to the appeal hearing. Notice shall also be provided to any interested person who was present at the hearing below and who requested a copy of the hearing officer's order and notice of any appeal hearing before the County Commission. The email notifications provided under this section pursuant to Section 39-38(b)(3)c are courtesy notifications only and shall not affect the validity of any action taken relative to a variance or appeal of an administrative decision, and failure to receive such notification shall not give rise to a cause of action challenging the order of the County Commission.

. . .

Section 5. SEVERABILITY.

If any portion of this Ordinance is determined by any court to be invalid, the invalid portion shall be stricken, and such striking shall not affect the validity of the remainder of this Ordinance. If any court determines that this Ordinance, or any portion hereof, cannot be legally applied to any individual(s), group(s), entity(ies), property(ies), or circumstance(s), such determination shall not affect the applicability hereof to any other individual, group, entity, property, or circumstance.

Section 6. INCLUSION IN CODE.

It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Broward County Code; and that the sections of this Ordinance may be renumbered or relettered and the word "ordinance"

may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.

PROPOSED

Section 7. EFFECTIVE DATE.

This Ordinance shall become effective as provided by law.

ENACTED

FILED WITH THE DEPARTMENT OF STATE

EFFECTIVE

Approved as to form and legal sufficiency:
Andrew J. Meyers, County Attorney

By *\/s/ Maite Azcoitia* 06/08/18
Maite Azcoitia (date)
Deputy County Attorney

MA/gmb
06/08/18
Ch39Notice-o01
#41039-302839

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in underscored type are additions.

PROPOSED

RESOLUTION NO. 2018-

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, RELATING TO LICENSING OF SIGNIFICANT ENVIRONMENTAL IMPACT FACILITIES; AMENDING SECTION 27.170 OF THE BROWARD COUNTY ADMINISTRATIVE CODE ("ADMINISTRATIVE CODE"), PROVIDING NOTICE REQUIREMENTS FOR THE LICENSING OF SIGNIFICANT ENVIRONMENTAL IMPACT FACILITIES; AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE ADMINISTRATIVE CODE, AND AN EFFECTIVE DATE.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA:

Section 1. Section 27.170 of the Broward County Administrative Code is hereby amended to read as follows:

27.170. Public Notices of Licensing Significant Environmental Impact Facilities.

Applicants for a license required under Chapter 27 of the Broward County Code of Ordinances to construct, operate, or make a ~~major~~ modification to a dump, incinerator, resource recovery facility, sanitary landfill, or Significant Environmental Impact Facility, as defined in this section, shall provide the public notices required herein in addition to any other federal, state, or local notice requirements.

a. "Dump" means a site where trash, waste, refuse, rubbish, or garbage is placed for disposal.

b. "Incinerator" means an apparatus for the burning of trash, waste, refuse, rubbish, or garbage at high temperatures until it is reduced to ash.

c. "Resource recovery facility" means a facility where energy is extracted from solid waste. For purposes of this section, a "resource recovery

facility" shall not include facilities subject to the Florida Electrical Power Plant Siting Act, Sections 403.501, et seq., Florida Statutes.

d. "Sanitary landfill" means an area of land or an excavation where waste material is placed or has been placed for disposal.

e. "Significant Environmental Impact Facility" means:

. . .

5. A dump, sanitary landfill, incinerator, or resource recovery facility, as defined herein ("solid waste management facility"), that requires a license under Section 27-216 of the Code of Ordinances;

. . .

~~b.~~ f. For Significant Environmental Impact Facilities other than solid waste management facilities, ~~T~~the applicant shall provide the notices by regular first class mail to the following persons:

. . .

Property owners, names, and addresses for notice purpose shall be determined in accordance with the current tax roll of Broward County, Florida, unless the applicant has actual knowledge of a different property owner. In the event the notification area includes land declared to be a condominium or homeowners' association under Chapter 718 or 720, Florida Statutes, notice shall be sufficient if provided to the condominium or homeowners' association of record for the property.

g. For solid waste management facilities, the applicant shall provide the notices:

1. By regular first class mail to the mayor, each city commissioner or council member, and the city administrator or city manager of any municipality within Broward County and within a radius of four (4) miles of the perimeter of the facility property boundary;

2. By email to the County Commissioners of districts for which any portion of the district is within a radius of four (4) miles of the perimeter of the facility property; and

3. By email to any unincorporated area neighborhood or civic organization within a four (4) mile radius of the perimeter of the facility property. The neighborhood or civic associations receiving such notice shall be those listed on the "Neighborhood Association/Civic Representatives List for the Unincorporated Area" and as delineated on the "Unincorporated Neighborhood Map." The neighborhood list and map shall be available for public inspection, and changes may be made by the Director of the Planning and Development Management Division.

In addition to the above-referenced notices provided by the applicant, the Environmental Engineering and Permitting Division, or successor agency, shall provide email notification to:

1. Board members of condominium and homeowners' associations within Broward County and within a four (4) mile radius of the perimeter of the facility property and who sign up with Broward County to receive email notifications; and

2. Any other person who lives or owns property within Broward County and within a four (4) mile radius of the perimeter of the facility property and who signs up with Broward County to receive email notifications.

The foregoing notices provided by the Environmental Engineering and Permitting Division are courtesy notifications and shall not affect the validity of any action taken relative to an application under this part, and failure to receive such notification shall not give rise to a cause of action challenging action taken relative to the license under Section 27-216 of the Code of Ordinances.

~~c.~~ h. Notices shall include:

1. The location, description, and name of the subject facility;
2. The full and correct legal name of the applicant;
3. The type of license applied for;
4. The license number (if any); and
5. The address of the facility where the application, license, or intent to issue a license is on file for examination or copying, and a phone number for EPGMD where more information may be obtained.

~~d.~~ i. The applicant and the Environmental Engineering and Permitting Division shall mail or email (consistent with the requirements stated above) the notices:

1. Within nine (9) days after the filing of an application for licensing of a Significant Environmental Impact Facility; and

2. Within nine (9) days after receipt of a license or intent to issue a license.

However, no applicant shall mail notice on or within five (5) days prior to a federal, state, or Broward County legal holiday. If a federal, state, or Broward County legal holiday exists within the mailing period, notice shall be mailed either at least six (6) days before the holiday or on the next business day following the holiday.

~~e.~~ j. Within seven (7) days after mailing or emailing each notice, the applicant shall submit to EPGMD proof of notice by providing electronic copies of all notices sent, together with an affidavit that the notices were mailed on the date indicated on the notice.

~~f. The following license applications, licenses, and intent to issue licenses shall not be subject to the notice requirements of this section:~~

~~1. license renewals that do not include a major modification to the licensed facility or activity; and~~

~~2. licenses issued pursuant to declaration of emergency by the Governor of Florida.~~

Section 2. SEVERABILITY.

If any portion of this Resolution is determined by any court to be invalid, the invalid portion shall be stricken, and such striking shall not affect the validity of the remainder of this Resolution. If any court determines that this Resolution, or any portion hereof, cannot be legally applied to any individual(s), group(s), entity(ies), property(ies), or circumstance(s), such determination shall not affect the applicability hereof to any other individual, group, entity, property, or circumstance.

Section 3. INCLUSION IN THE ADMINISTRATIVE CODE.

It is the intention of the Board of County Commissioners that the provisions of this Resolution shall become and be made a part of the Broward County Administrative Code; and that the sections of this Resolution be renumbered or relettered and the word "resolution" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.

PROPOSED

Section 4. EFFECTIVE DATE.

This Resolution shall become effective upon adoption.

ADOPTED this day of , 2018.

Approved as to form and legal sufficiency:
Andrew J. Meyers, County Attorney

By *\/s/ Maite Azcoitia* 06/07/18
Maite Azcoitia (date)
Deputy County Attorney

MA/gmb
06/07/18
Chapter 27 Notices Resolution (2)
#41039-302940

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in underscored type are additions.