

PROPOSED

ORDINANCE NO. 2018-

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

(Sponsored by Vice-Mayor Mark D. Bogen)

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

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

14 **Sec. 39-27. Notices of public hearing.**

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

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

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

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

4 (2) For all owner-initiated petitions for rezoning, notice shall be ~~sent~~ mailed via
5 regular first class mail to all property owners within a radius of three hundred
6 (300) feet of the perimeter of the petitioned area, and to the mayor,
7 commissioners, and city manager of any municipality within Broward
8 County and within a radius of five hundred (500) feet of the perimeter of the
9 petitioned area, except that such radius shall be extended to one thousand
10 (1,000) feet when any such request is in or contiguous to any Rural, Estate,
11 or Agricultural district, or any Wellfield Zone of Influence, as depicted in the
12 adopted Wellfield Protection Zones of Influence maps; and or

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

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

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

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

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

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

17 ~~(4)~~ (5) Property owners and addresses for notice shall be determined in
18 accordance with the current tax roll of Broward County, Florida, unless
19 there is actual knowledge of a subsequent property owner; and

20 ~~(5)~~ (6) In the event the notification area for a petition for rezoning of property that
21 is not used, or not to be used, as a dump, sanitary landfill, incinerator, or
22 resource recovery facility includes land declared to be a condominium or
23 homeowners' association under Chapter 718 or 720, Florida Statutes, then

24
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1 notice to the condominium or homeowners' association shall constitute
2 notice; and

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

7 NOTICE OF PUBLIC HEARING

8 REZONING

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

14
15 The sign shall remain posted on the property until a decision on the petition
16 has been made by the Board of County Commissioners.

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

22
23 Section 2. Section 39-38 of the Broward County Code of Ordinances is hereby
24 amended to read as follows:

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1 **Sec. 39-38. Notices.**

2 . . .

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

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

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

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

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

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

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

22 ~~(3)~~ (4) Any unincorporated area neighborhood or civic organization within a ~~one~~
23 ~~(1)~~ four (4) mile radius of the ~~property line~~ perimeter of the ~~property~~
24 petitioned area shall be ~~mailed~~ provided with email notification of the

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

9 ~~(4)~~ (5) In the event a requested variance involving commercial or industrial
10 property is within one thousand (1,000) feet of a Wellfield Zone of
11 Influence, as depicted in the adopted Wellfield Protection Zone of
12 Influence maps, the operator of such wellfield shall be mailed notification
13 by certified mail, return receipt requested.

14 ~~(5)~~ (6) In the event the notification area for a variance or appeal related to
15 property that is not used, or not to be used, as a dump, sanitary landfill,
16 incinerator, or resource recovery facility includes land declared to be a
17 condominium or homeowners' association under Chapter 718 or 720,
18 Florida Statutes, then notice to the condominium or homeowners'
19 association shall constitute notice.

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

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1 NOTICE OF QUASI-JUDICIAL PUBLIC HEARING
2 VARIANCE OR APPEAL OF ADMINISTRATIVE DECISION

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

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

12 . . .

13
14 Section 3. Section 39-42 of the Broward County Code of Ordinances is hereby
15 amended to read as follows:

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

18 . . .

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

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

15
16 Section 4. Section 39-44 of the Broward County Code of Ordinances is hereby
17 amended to read as follows:

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

19 . . .

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

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

11 . . .

12
13 Section 5. SEVERABILITY.

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

20
21 Section 6. INCLUSION IN CODE.

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

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

PROPOSED

3
4 Section 7. EFFECTIVE DATE.

5 This Ordinance shall become effective as provided by law.
6

7 ENACTED

8 FILED WITH THE DEPARTMENT OF STATE

9 EFFECTIVE

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

12 By /s/ Maite Azcoitia 06/20/18
13 Maite Azcoitia (date)
14 Deputy County Attorney
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