

City of Sarasota

Sec. IV-202. - Notices and public hearings.

- (a) Applicability. The notice of hearing requirements and procedures for the conduct of public hearings set out in this section shall be applicable as provided below.
- (b) Classification of decisions. Decisions made pursuant to this zoning code shall be classified as provided below:
 - (1) *Legislative.*
 - a. Amendments to the text of the zoning code;
 - b. Comprehensive plan and future land use map series amendments;
 - c. Development Agreements;
 - d. Street and right-of-way vacations;
 - e. Comprehensive city-initiated rezonings affecting a large portion of the public.
 - (2) *Quasi-judicial.*
 - a. Site plans (except those approved administratively);
 - b. Variances;
 - c. Major and minor conditional uses;
 - d. Historic designation and the granting or revoking of certificates of appropriateness;
 - e. Site-specific rezonings;
 - f. "G" zone waivers;
 - g. Off-site or shared parking agreements;
 - h. Subdivision plats;
 - i. Adjustments decided by the planning board;
 - j. Appeals from administrative interpretations.
 - (3) *Administrative.*
 - a. Site plans for development of properties located in the downtown zone districts;
 - b. Site plans described in section IV-501(c) of this zoning code;
 - c. Administrative interpretations of the director of neighborhood and development services and administrative interpretations of the director of neighborhood and development services applicable to properties located in the downtown zone districts;
 - d. Adjustments decided by the director of neighborhood and development services;
 - e. EDCM waivers;
 - f. Provisional use permits;
 - g. Minor encroachment agreements;
 - h. All other permits issued by city staff which do not require a prior public hearing;
- (c) Notice of public hearing. The city auditor and clerk's office shall be responsible for providing the notices described herein.
 - (1) Notices of public hearing shall include:
 - a. The date, time and place of the hearing;

- b. A summary of the proposal under consideration
 - c. A locational map showing the location of the property subject to the application (if applicable).
 - d. The address of the subject property shall be provided on the notice of public hearing for all quasi-judicial decisions and for legislative privately initiated future land use map amendments. The address of the property may be provided, but shall not be required, on the notice of public hearing for all other legislative matters.
- (2) Notices of public hearing shall be provided:
- a. For all public hearings, (1) by publication of a copy of the notice in one or more newspapers with general circulation in the city and (2) by sending a copy to neighborhood associations and those additional people who have registered with the office of the city auditor and clerk to receive notice.
 - b. For public hearings on all quasi-judicial matters and public hearings on street and right-of-way vacations, development agreements and future land use map amendments, by sending a copy of the notice by mail to each owner of record of any land within 500 feet of the zoning lot(s) to which the application pertains and by sending a copy of the notice by mail to each owner of record of the zoning lot(s) to which the application pertains, if different from the applicant. For purposes of these regulations, the term "owner of record" shall mean the owner as reflected on the most recently published county tax rolls from the county property appraiser. Failure to notify any such property owner as provided in subparagraphs (2)a. and (2)b. shall not invalidate the hearing or subsequent action related thereto.
 - c. For site plans (except those approved administratively), variances, major and minor conditional uses, site specific quasi-judicial rezonings, "G" zone waivers, adjustments considered by the planning board and privately initiated amendments to the future land use map, by conspicuously posting, at least ten days prior to a required public hearing, a weatherproof sign(s), provided by the city auditor and clerk's office, at least two by three feet in front surface area, on every roadway frontage of the zoning lot(s) to which the application pertains. Such sign(s) shall not be removed by the city until the conclusion of the public hearing.
 - d. For public hearings on legislative rezonings, notice of public hearing shall be provided as required by F.S. § 166.041(3)(c), or its successor, for rezoning ordinances initiated by a municipality.
- (3) Time of notice. Except when additional time for advance notice is required by state statutes all required notices shall be provided at least 15 days prior to the public hearing.
- (d) Examination and copying of application and other documents. All materials submitted in regard to any application for development approval are public records and shall be made available for public inspection and copying.
- (e) Conduct of all public hearings.
- (1) *Continuance.* The city commission or other applicable city board may continue a public hearing to a specified or unspecified date, time and place. In the event that the continuance is to a specified date, time and place, the specific date, time and place of the continued public hearing shall be publicly announced at the meeting at which the continuance is approved. In the event that the continuance is to an unspecified date, time and place, the city auditor and clerk's office or board secretary shall cause notice to be given to all persons originally entitled to notice, of the date, time and place of such continued hearing in the same manner as specified herein.
 - (2) *Record of hearing.*
 - a. The city auditor and clerk's office or board secretary shall ensure that the proceedings are recorded by an appropriate means. If a sound recording is made, any person shall be

entitled to listen to the recording at any reasonable time or to make copies at his own expense.

- b. The record of the proceedings shall consist of the recording of the testimony, all applications, exhibits and papers submitted in any proceeding with respect to the matter being considered, additional materials required by section IV-201(d) and the staff report prepared by the department of planning and redevelopment.
- (3) *Restriction on rehearings.* Rehearings may be permitted on any matter after the close of the public hearing only upon a determination by the commission or board within ten days of the hearing that the decision was based upon mistake, fraud or misrepresentation. If rehearing is granted, notice shall be provided in the same manner as the original proceeding.
- (4) *Other rules to govern.* Other matters pertaining to the public hearing shall be governed by other provisions of these regulations applicable to the body conducting the hearing and its adopted rules of procedure.
- (f) **Conduct of quasi-judicial hearings.** The provisions of this section are applicable only to public hearings on those matters classified as quasi-judicial under section IV-202(b)(2) above.
 - (1) Summary of evidence and disclosure of report. The applicant shall file a disclosure report with the city auditor and clerk's office at the time the application for development approval is filed. The disclosure report shall include the following:
 - a. Names and addresses of witnesses the applicant intends to call at the hearing;
 - b. The names and addresses of expert witnesses to be used, if any, including a statement of the expert's qualifications;
 - c. A summary of the facts to be presented by applicant personally or by use of a witness or expert;
 - d. Copies of reports, studies, letters, documentary evidence and summaries of evidence to be used, if any, to the extent there is any change in the disclosure report or summary of evidence, the applicant shall submit supplemental information no later than ten days prior to a scheduled public hearing.
 - e. In the event the applicant intends to respond to comments of the DRC or neighborhood input and questions, the applicant shall submit supplemental information no later than ten days prior to a scheduled public hearing.
 - (2) Opening matters and preliminary remarks.
 - a. The city auditor and clerk's office or board secretary shall describe the application, identify the applicant and other persons to the proceedings, and announce the order of presentation.
 - b. Disclosure of ex parte communications to city commission or board members, if any, which shall be made a part of the record.
 - c. The city auditor and clerk's office or board secretary shall swear the witnesses unless they were previously sworn as part of the regular public hearing process of the city commission or planning board.
 - (3) Presentation of case in chief. The applicant, the city and any other persons may present testimony and documentation to the city commission or planning board. Only the applicant, city and any affected person (as hereinafter defined) may examine witnesses and may conduct cross examination of other persons who provided testimony. Only the applicant, affected persons, and city may provide rebuttal testimony. The city commission, planning board or other board as applicable shall have the authority to decide who is an affected person as defined herein. For purposes of this paragraph, affected person shall mean:
 - a. An owner, resident, or other occupant of real property located within 500 feet of the real property which is the subject of the quasi-judicial hearing; the owner's, resident's, or

occupant's designated representative or a designated representative of the neighborhood association whose members consist of such owners, residents or occupants. Such distance shall be measured in a straight line from the nearest property boundary of the zoning lot(s) which is the subject of the quasi-judicial hearing to the nearest property boundary of the zoning lot owned or occupied by the affected person. The term designated representative shall mean a person who has written authorization to represent an owner, resident, occupant or neighborhood association. In the case of an owner, resident, or occupant, the authorization shall be signed by said owner, resident or occupant. In the case of a neighborhood association, the authorization shall be signed by an officer or member of the board of directors of the neighborhood association; or

- b. A person who will suffer a negative effect to a protected interest as a result of the quasi-judicial action sought by the applicant. Although the adversely affected interest may be shared in common with the other members of the community at large, the adversely affected interest shall exceed in degree the general interest in community good that is shared by all persons. Examples of such impact may included negative traffic impact resulting from the proposed use with respect to surrounding uses and whether the physical appearance of the proposed use is compatible with the character of surrounding uses.

(4) Hearing before planning board.

- a. In regard to rezoning, major conditional uses, and "G" zone waivers, the planning board at the conclusion of the public hearing, shall recommend approval, approval with conditions, or denial of the application. Action taken by the planning board to recommend approval or approval with conditions for a major conditional use or "G" zone waiver shall be documented in the form of a resolution containing the legal description of the property to which the application applies, together with the terms of the approval. Such resolution shall be recorded in the public records of the county by the city auditor and clerk.
- b. In regard to site plans and minor conditional uses, the board, at the conclusion of the public hearing, shall grant, grant with conditions, or deny the application, subject to appeal under section IV-505 in regard to site plans and under section IV-905(a) in regard to minor conditional uses. Action taken by the planning board to grant a minor conditional use with or without conditions shall be documented in the form of a resolution containing a legal description of the real property to which the application applies, together with the terms of the minor conditional use approval. Such resolution shall be recorded in the public records of the county by the city auditor and clerk.

(5) Hearing before city commission.

- a. *Site specific quasi-judicial rezonings* . The city commission shall review the proposed rezoning, the written staff report and the recommendation of the planning board, and shall approve, approve with conditions, or deny the rezoning and site plan, if any, after a public hearing. Action taken by the city commission to approve a rezoning with or without conditions shall be documented in the form of an ordinance which rezones the subject real property and which shall state with specificity and conditions offered by the applicant and accepted by the city commission pursuant to section IV-1102(b).
- b. *Major conditional uses*: Upon receipt of the recommendation of the planning board, in the form of a resolution and the written staff report, the city commission, at its option, may affirm the planning board's resolution without a hearing. If the city commission affirms the planning board resolution, the city auditor and clerk shall verify and record, in the public records of the county, the planning board resolution with a notation on the resolution of the date of its affirmation by the city commission. The city commission may also hold a public hearing to consider the application for a major conditional use and grant, grant with conditions, or deny the application. Action by the city commission, at its public hearing, to grant a major conditional use with or without conditions shall be documented in the form of a resolution containing a legal description of the real property to which the major conditional use applies, together with the terms of the major conditional use and any

conditions imposed. Such resolution shall be recorded in the public records of the county by the city auditor and clerk.

- (6) The city commission or any other city board which decides quasi-judicial matters may adopt by resolution additional rules for the conduct of quasi-judicial public hearings.
- (7) Contacts outside of hearing. The following provisions relating to ex parte contacts shall govern the conduct of members of the city commission, and other city boards which make quasi-judicial decisions when the city commissioners or board members receive an ex parte communication from a person about the merits of an application outside the quasi-judicial hearing:
 - a. If the ex parte communication takes the form of a written communication, the written communication shall be provided to the city auditor and clerk's office, after receipt by the commissioner or board member, and shall be made part of the record in accordance with the procedures outlined in section IV-202(f)(2).
 - b. If the communication is oral, the commissioner or board member shall identify the subject of the communication and identify the person, group or entity with whom the communication took place in accordance with the procedures outlined in section IV-202(f)(2).
 - c. If the commissioner or board member conducts investigations, makes a site visit or receives expert opinions outside the public hearing, then the existence of the investigation, site visit, or expert opinion shall be made part of the record in accordance with the procedures outlined in section IV-202(f)(2).
- (g) Whenever any application for development approval of a conditional use permit or a rezoning is denied, an application involving the same property shall not be accepted for filing within one year from the date of action by either the planning board or city commission, whichever occurs first, unless upon consideration of all the relevant circumstances, the city commission grants a waiver from this restriction.