



Legislation Text

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Planning Report Notification Requirements for Public Hearings Planning & Zoning Commission October 12, 2016

REQUEST:

Receive a report and hold a discussion regarding current notification practices and requirements for public hearings.

BACKGROUND:

On April 27, 2016, a work session presentation was made to the Planning and Zoning Commission regarding the City's public hearing notification process. This report is a follow up to feedback received from the Commission regarding possible process improvements. Staff focused on ideas that will increase the effectiveness and efficiency of notifying the public.

CONSIDERATIONS:

1. On February 2, 1999, the City Council adopted Ordinance No. 99-029, which established sections in the Municipal Code of Ordinances, containing the procedures for public hearing notification. However, in 2002, when the Denton Development Code (DDC) was adopted these sections were repealed. Currently Subchapter 35.3 - Procedures of the DDC contains the procedures for public notification requirements. Per the DDC, public hearings shall be held in accordance with state law. Specifically as set forth in §211.007 of the Texas Local Government Code (TLGC).
2. The TLGC requires:
 - published notice of the hearing in the official newspaper before the 15th day before the date of the hearing; and
 - written notices be mailed out to property owners located within 200-feet of the subject property via regular mail before the 10th day before the hearing date.

The TLGC does not require courtesy notices be mailed out to properties located within 500-feet of the subject property.

3. Repealed sections of the Municipal Code of Ordinances required:

Notice of the public hearing shall be given not less than ten (10) days before the date set for the commission's public hearing using each of the following methods:

- *Published notice.* Notice of the scheduled public hearing shall be published in the official newspaper of the city stating the time and place of such public hearing and a description of the

requested amendment to the zoning ordinance.

- *Legal notice.* Legal notice of the scheduled public hearing shall be sent to all owners of real property lying within two hundred (200) feet of the subject property. Notice shall be given by posting such notice not less than ten (10) days before the date set for hearing, properly addressed and postage-paid via certified mail to each owner as indicated by the most recently approved city tax roll.
 - *Courtesy notice.* Written notice of the scheduled public hearing, properly addressed and postage-paid via first class mail shall be provided to all residents of property located within five hundred (500) feet of the subject property by posting such notice to each parcel address as recorded on the city's geographic information system (GIS) data base. Failure on the part of property owners to receive the courtesy notice shall not invalidate the scheduled public hearing process.
 - *Posted notice.* A sign shall be posted on the subject property according to rules established and published by the planning and development department, a copy of which will be available at the city secretary's office and the planning and development department offices.
4. Exhibit 1 provides a comparison table of public hearing notification requirements per sections of the Municipal Code of Ordinances (repealed), the notification requirements per section 35.3 of the DDC, and the notification requirements per section 211.007 of the Texas Local Government Code.
 5. In response to concerns that property owners were not receiving the public hearing notices that were sent out via regular mail and because the City wanted to provide additional notification above what is legally required, the City continued to follow the notification requirements outlined in the repealed sections of the Municipal Code of Ordinances.
 6. Not all public hearing notices mailed out via certified mail are being retrieved by citizens. Rather they are kept at the post office until a certain amount of time when they are returned back to the City. Certified notices are returned to the Planning Division labeled as "Not picked up." Staff has heard from property owners stating that it is inconvenient to have to pick up the notices from the post office.
 7. Exhibit 2 provides a comparison table illustrating the notification requirements of neighboring cities. In order to determine best practices for public hearing notification, staff surveyed five cities in the Metroplex for their notification requirements. The following is the result of the survey:
 - all of the cities surveyed send out the public hearing notices via regular mail;
 - two cities, Fort Worth and Plano, send out courtesy notices; and
 - all but one city (Fort Worth) requires the applicant to purchase, post, maintain, and remove the notification signs from the site.
 8. Exhibit 3 provides a breakdown cost of notices mailed via certified mail, regular mail, and postcards. The cost to send one 8 ½" x 11" full color, two-sided letter via certified mail is \$5.77. The cost to send the same notice via regular mail is \$2.42.
 9. This past fiscal year, the total cost of mailing certified notices (excluding September) was \$34,969. This amount is anticipated to increase by approximately \$20,000 when the cost of the mailings from September

is included. In September a large quantity of notices were sent via certified mail for one project.

10. The minimum size of the public hearing signs posted on site:

- Frisco (4' x 4')
- McKinney (4' x 4')
- Plano (4' x 4')
- Lewisville (3' x 4')
- Denton (2' X 3')

RECOMMENDATIONS:

Staff strongly recommends that the following public hearing notification process improvements:

1. Mail out public hearing notices (200-feet) to property owners within 200-feet of the subject property via regular mail. Not all notices are retrieved by property owners from the post office and the cost of sending notices via certified mail is twice as much as sending notices via regular mail.
2. Mail out courtesy notices (500-feet) to residents within 500-feet of the subject property via postcards. The intent is to give more attention to the notice. Please note that property owners within 200 feet will also receive a courtesy notice postcard, effectively receiving two notices.
3. Enlarge the minimum sign dimension to 4'x 4'.
4. Require the applicant to purchase, post, maintain, and remove the notification signs from the site. The applicant will be required to provide a signed and notarized affidavit attesting to the posting and removal of the required signs on the subject property. A date stamped photograph will be required to accompany the affidavit. Multiple signs will be required for corner lots and lots that have a linear frontage greater than 500 feet.
5. Track public notices and courtesy notices that are returned to the City. This information will be available to the Planning and Zoning Commission when requested.
6. Create a link on the Planning Division webpage dedicated for public hearing notices.

EXHIBITS:

1. Comparison of Notification Requirements
2. Comparison of Neighboring Cities Notification Requirements
3. Mailing Costs
4. Cost Comparison between Current and Proposed Practice

Respectfully submitted:
Munal Mauladad
Director of Development Services

Prepared by:
Cindy Jackson, AICP
Senior Planner