

LAND DEVELOPMENT CODE AMENDMENT

PETITION

PL20220008172

ORIGIN

Board of County
Commissioners (Board)

SUMMARY OF AMENDMENT

This Land Development Code (LDC) amendment introduces the Rules of Decorum for a Neighborhood Information Meeting (NIM). An update to the Collier County Administrative Code for Land Development (Administrative Code) is included as a companion amendment. LDC amendments are reviewed by the Collier County Planning Commission (CCPC), Development Services Advisory Committee (DSAC), and the Land Development Review Subcommittee of the DSAC (DSAC-LDR).

HEARING DATES

Board	11/14/2023 09/26/2023
CCPC	08/17/2023 06/01/2023 05/18/2023 04/06/2023
DSAC	02/01/2023
DSAC-LDR	01/17/2022

LDC SECTION TO BE AMENDED

10.03.05 Required Methods of Providing Public Notice

ADVISORY BOARD RECOMMENDATIONS

DSAC-LDR

Approval with recommendations

DSAC

Approval with recommendations

CCPC

Approval with recommendations

BACKGROUND: In 2001, Collier County first adopted NIM provisions into the LDC for meetings known then as public informational meetings. Under the current LDC, NIMs are mandatory for many types of land use petitions (e.g., Rezones, Conditional Uses, Planned Unit Development amendments, new Stewardship Receiving Areas, etc.) and are to be held at least 15 days prior to the first public hearing. On September 13, 2022, the Board directed staff to bring back an amendment to the Administrative Code to address an expressed concern for public safety, meeting decorum, and virtual NIM options (Board Agenda Item 16.A.1). The executive summary for that item (see Exhibit B) contained details of a then-recently held NIM that was forced to adjourn due to the disorderly conduct of some of the attendees. Below is an excerpt from the executive summary describing the circumstances:

“The Board discussion centered on a NIM for a current PUD Rezone petition at Collier Boulevard and Vanderbilt Beach Road that was abruptly ended due to a minority percentage of attendees who were disruptive with abusive language, threatening statements and refused to allow the rest of the attendees to hear the project’s details. This created a situation where the crowd began to argue internally, and fearing further escalation into physical confrontation, the meeting was terminated.”

The executive summary also contained five proposed “modifications,” which were ideas designed to address the expressed concern. Staff used these ideas as a general guide when developing the proposed changes to the LDC and Administrative Code. When staff originally presented the five ideas to the Board, it was thought that only changes to the Administrative Code would be necessary. However, after collaborating with the County Attorney’s Office, it has been determined that an ordinance amending the LDC would also be required, because some of the proposed provisions are substantive in nature and/or sets policy, and the Administrative Code is only to be used in a procedural context. As part of the proposed LDC and Administrative Code changes, staff has included purpose and intent language for the NIM, to help formalize and provide perspective on why NIMs are required.

A parallel effort to increase the level of decorum at the Board level had recently been undertaken by the County Attorney’s Office. On June 14, 2022, the Board requested that the County Attorney’s Office draft an ordinance to increase the level of decorum at Board meetings, and on June 28, 2022, the Board directed the County Attorney to advertise and bring back a proposed ordinance. On September 13, 2022, the Board adopted Ordinance 2022-34, which authorizes the Chairman to better deal with disorderly persons. Excerpts from the executive summary and ordinance are provided in Exhibits C and D, respectively.

DSAC-LDR Subcommittee Recommendation: On January 17, 2023, the DSAC-LDR Subcommittee recommended approval of the LDC amendment and companion amendment to the Administrative Code, contingent upon the following:

1. Reword LDC section 10.03.05 A.3., by deleting “and collaboration” from the sentence (page 3, line 18).
2. Modify the first paragraph of Conduct of Meeting and Decorum in the Administrative Code to indicate the following: The applicant is required to record the NIM proceedings and provide an audio or audio/video copy to the Zoning Division, including a written summary.
3. The BCC should consider some type of punitive action against those who disrupt the NIM and cause it to cancel.

On February 1, 2023, the DSAC recommended approval of the LDC amendment and companion amendment to the Administrative Code, contingent upon the following:

1. Reword the Rules of Decorum by deleting, “and collaboration” from the sentence, “The purpose and intent of a NIM is to provide the public with notice of an impending land use petition and to foster communication and collaboration between the petitioner and the public.”
2. Allowing NIMs to be held virtually, in person, or both virtually/in person.
3. Reword the Rules of Decorum by deleting “to ensure the safety of all attendees” in the sentence: “The petitioner is encouraged to provide a security detail, which will be at the petitioner’s expense to ensure the safety of all attendees.” In addition, delete the following sentence in the Rules of Decorum: “The petitioner may request the security detail to remove a disorderly person.”

CCPC Recommendation: On June 1, 2023, the CCPC unanimously recommended approval, contingent upon requesting several changes, which are summarized in Exhibit E. The CCPC wanted to review the updated version on consent agenda at their next meeting. On August 17, 2023, the LDC amendment and companion amendment to the Administrative Code returned to the CCPC on consent agenda. The CCPC recommended approval of the non-substantive changes, including additional edits, along with the changes requested by staff at the meeting (see Exhibit E). After the CCPC meeting, staff further edited the LDC amendment and Administrative Code amendment to include one of the changes suggested by Woodward, Pires & Lombardo, P.A. in a letter dated August 15, 2023.

FISCAL & OPERATIONAL IMPACTS

The NIMs are conducted entirely at the petitioner’s expense and as such, there are no anticipated fiscal impacts to the County, except for the cost of advertising an ordinance amending the LDC.

GMP CONSISTENCY

The proposed LDC amendment has been reviewed by the Comprehensive Planning staff and may be deemed consistent with the GMP.

EXHIBITS: A) BCC 9/13/22 – Item 16.A.1. Executive Summary; B) BCC 9/13/22 – Item 17.A. Executive Summary; C) Ord. 2022-34; and D) CCPC Summary

Amend the LDC as follows:

10.03.05 – Required Methods of Providing Public Notice

This section shall establish the required methods of providing public notice. Chapter 8 of the Administrative Code shall establish the public notice procedures for land use petitions.

A. Neighborhood Information Meetings (NIM). Neighborhood Information Meetings, ~~when where~~ required, shall be held prior to the first public hearing, ~~and~~ noticed as follows, and subject to the Rules of Decorum:

- 1. Mailed Notice shall be sent prior to the NIM and shall be pursuant to LDC section 10.03.05 B.
- 2. Newspaper Advertisement prior to the NIM.
- 3. Rules of Decorum. The purpose and intent of a NIM is to provide the public with notice of an impending land use petition and to foster communication between the petitioner and the public. To promote increased participation and convenience to the interested members of the public, all NIMs shall be conducted at a physical location, to allow for in-person attendance, and virtually, utilizing videoconferencing technology. The expectation is that all NIM attendees will conduct themselves in such a manner that their presence will not interfere with the orderly progress of the meeting. The petitioner is encouraged to provide a licensed and qualified security detail for in-person meetings, which will be at the petitioner’s expense. If the petitioner or staff determines the NIM cannot be completed due to the disorderly conduct of the members of the public, the petitioner shall have the right to adjourn the NIM but be required to conduct another duly advertised NIM, either in person or via videoconferencing technology, or both, at the petitioner’s discretion.

B. Mailed Notice.

- 1. Where required, Mailed Notice shall be sent to property owners in the notification area as follows:
 - a. For areas in the urban designated area of the future land use element of the Growth Management Plan notices shall be sent to all property owners within 500 feet of the property lines of the subject property.
 - b. For all other areas, except areas designated in the Rural Golden Gate Estates Sub-Element or Urban Golden Gate Estates Sub-Elements of the Golden Gate Area Master Plan, notices shall be sent to all property owners within 1,000 feet of the property lines of the subject property.
 - c. For areas designated within the Rural and Urban Golden Gate Estates Sub-Element of the Golden Gate Area Master Plan, notices

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shall be sent to all property owners within one mile of the subject property lines, except for Estates (E) zoned variance applications, which shall be 1,000 feet of the subject property lines.

d. Notices shall also be sent to property owners and condominium and civic associations whose members may be impacted by the proposed land use changes and who have formally requested the county to be notified. A list of such organizations must be provided and maintained by the County, but the applicant must bear the responsibility of ensuring ~~insuring~~ that all parties are notified.

2. For the purposes of this requirement, the names and addresses of property owners shall be deemed those appearing on the latest tax rolls of Collier County. Unless required by F.S. § 125.66(4), the mailed notice is a courtesy only and is not jurisdictional. Accordingly, provided a good faith attempt for mailed notice is made, failure to mail or to timely mail the notice or failure of an affected property owner to receive mailed notice will not constitute a defect in notice or bar the public hearing as scheduled.

C. Newspaper Advertisement.

1. In accordance with F.S. § 125.66.

D. Posting of Signage. Where required, signs shall be posted 15 days prior to the first advertised public hearing pursuant to the Administrative Code.

E. Agent Letter. Where required, an informational letter shall be sent by the owner or Agent to property owners within 150 feet of the area covered by the petition following the initial staff review comments for the petition and prior to the resubmittal of the petition to the County.

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Exhibit A – BCC 9/13/22 - Item 16.A.1. Executive Summary

16.A.1

09/13/2022

Recommendation to direct staff to bring back an amendment to Ordinance 2013-57, the Administrative Code for Land Development to address an expressed concern for public safety regarding meeting decorum, location, and virtual options for Neighborhood Information Meetings.

OBJECTIVE: To have the Board of County Commissioners (Board) direct staff to bring back a formal amendment to the Administrative Code for Land Development to address recently discussed concerns for public safety and decorum at County required Neighborhood Information Meetings (NIM)s.

CONSIDERATIONS: At both the June 14th and the 28th, 2022 Board of County Commissioners Public Hearings, the Board discussed the need to provide further regulatory oversight regarding Neighborhood Information Meetings. The County requires a mandatory NIM for most land use petitions (Rezones, Conditional Uses, PUD and PUDA Rezones, Stewardship Receiving Areas, etc..) to be held at a minimum of 15 days prior to the Planning Commission public hearing.

The Board discussion centered on a NIM for a current PUD Rezone petition at Collier Boulevard and Vanderbilt Beach Road that was abruptly ended due to a minority percentage of attendees who were disruptive with abusive language, threatening statements and refused to allow the rest of the attendees to hear the project's details. This created a situation where the crowd began to argue internally, and fearing further escalation into physical confrontation, the meeting was terminated.

To address this reality, the Board directed staff to consider modifications to the NIM requirements and guidance to curtail such situations from transpiring at future NIMs. This executive summary is requesting the Board to direct Staff to initiate the process for updating the Administrative Code to include the following modifications:

1. Allow an applicant the option to hold two NIMs, with the First virtual and the Second available for in-person and a virtual option;
2. To require standard language for rules of decorum within the public notice and advertising for NIMs;
3. Extend rules of decorum for advisory board and BCC public meetings to NIM's.
4. Require security detail paid by applicant at all NIMs;
5. Require all speakers to state their name and address.

FISCAL IMPACT: The Neighborhood Information Meetings, though required by the County are conducted entirely at the applicant's expense, as such there is no anticipated fiscal impact to the County.

GROWTH MANAGEMENT IMPACT: The Growth Management Plan does not address NIMs, other than promoting public participation with the rezoning process. Modifications to requirements for NIM will not impact the GMP.

LEGAL CONSIDERATIONS: This item has been approved as to form and legality, and requires an affirmative vote of three for Board approval. (JAK)

RECOMMENDATION: That the Board of County Commissioners direct staff to bring back a formal amendment to the Administrative Code for Land Development to address recently discussed concerns for public safety and decorum at County required Neighborhood Information Meetings (NIM)s.

Prepared by: Mike Bosi, AICP, Director, Zoning Division

Packet Pg. 406

Exhibit B – BCC 9/13/22 - Item 17.A. Executive Summary

09/13/2022

EXECUTIVE SUMMARY

Recommendation to amend Ordinance No. 75-16, as amended, to authorize the Chairman to better deal with disorderly persons, including requesting law enforcement officers remove disorderly persons when conduct interferes with orderly progression of meetings.

OBJECTIVE: To adopt the proposed ordinance amending Ordinance No. 75-16, as amended, in order to enhance security during Board meetings.

CONSIDERATION: On June 14, 2022, the Board requested the County Attorney draft an Ordinance to increase the level of decorum at Board of County Commissioner meetings, and on June 28, 2022, the Board directed the County Attorney to advertise and bring back the proposed ordinance for a public hearing.

The proposed Ordinance amendment is modeled after the procedure utilized by the Collier County School Board for its meetings, which the Sheriff has been comfortable enforcing.

The proposed ordinance amends the Board's meeting ordinance as follows:

Sec. 2-37. - Addressing the Commission

- (a) If a subject is not on the agenda for a meeting of the Board of County Commissioners it may be added by motion and an affirmative vote of a majority of all Board members present that the subject should not be delayed until the next meeting.
- (b) Any person appearing to provide the Board factual information or expert opinion to consider prior to taking official action shall be governed by the following procedure:
 - (1) Prior to addressing the Board the speaker shall approach any podium or any other place otherwise designated by the Board of County Commissioners for this purpose and clearly state his or her full name, home address, the name of the person or entity that he or she represents and the subject of his or her address.
 - (2) Before providing factual information or expert opinion the speaker may ask, and any Commissioner may require the speaker to be placed under the following oath with right hand upraised:

"I willfully swear under oath the facts and testimony I furnish this Board to be the truth, the whole truth and nothing but the truth, and not inconsistent or contradictory with other statements made by me under oath."

No person shall be required to take this oath more than once in any given day, but shall be reminded he is under oath before again addressing the Board. Each commissioner, shall take the oath one time and be considered under oath during the term of his office.Those asking questions or desiring to comment on a matter before the Board shall not be required to take the oath. Any Commissioner may at any time request such a speaker to take the above oath.
 - (3) Each person shall limit his address to three minutes unless granted additional time by the Chairman or by an affirmative vote of the majority of the Board members present. All remarks shall be to the Board as a body and not to any individual member. No person other than a Commissioner shall discuss directly or through a Commissioner, without authorization of the presiding officer.

Exhibit B – BCC 9/13/22 - Item 17.A. Executive Summary

09/13/2022

- (4) ~~Any person making impertinent or slanderous remarks or who becomes boisterous shall be instructed to remain silent by the presiding officer, until permission to continue is granted. The Chairman may:~~
- ~~1. interrupt, warn, or terminate a speaker's statement when such statement is too lengthy, abusive, obscene, irrelevant or repetitive;~~
 - ~~2. request any individual to leave the meeting when that person does not observe reasonable decorum;~~
 - ~~3. request the assistance of law enforcement officers in the removal of a disorderly person when that person's conduct interferes with the orderly progress of the meeting;~~
 - ~~4. call for a recess or an adjournment to another time when the lack of public decorum so interferes with the orderly conduct of the meeting as to warrant such action.~~

Sec. 2-38. - Sergeant-at-arms.

The County Sheriff, or his deputy, shall be the sergeant-at-arms at meetings of the Board of County Commissioners and shall carry out all orders of the Chairman to maintain order and decorum, including the removal of a disorderly person when requested by the Chairman.

FISCAL IMPACT: The proposed ordinance was advertised in the Naples Daily News on Thursday, June 30, 2022, for a cost of \$560.00.

GROWTH MANAGEMENT IMPACT: None.

LEGAL CONSIDERATIONS: This item has been reviewed by the County Attorney, is approved as to form and legality and requires majority vote for approval. -JAK

RECOMMENDATION: That the Board of County Commissioners adopt the proposed ordinance amending Ordinance No. 75-16, as amended.

PREPARED BY: Colleen A. Kerins, Assistant County Attorney and
Jeffrey A. Klatzkow, County Attorney

ATTACHMENT(S)

1. Ordinance - Amend Ord. 75-16 BCC meeting ordinance - numbered (PDF)
2. Ordinance - amend Ord. 75-16 BCC meeting ordinance - JAK signed (PDF)
3. legal ad - amend Ord. 75-16 (PDF)

Exhibit C – Ord. 2022-34

ORDINANCE NO. 22 - 34

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA, AMENDING ORDINANCE NO. 1975-16, AS AMENDED, IN ORDER TO AUTHORIZE THE CHAIRMAN TO BETTER DEAL WITH DISORDERLY PERSONS, INCLUDING REQUESTING THE ASSISTANCE OF LAW ENFORCEMENT OFFICERS TO REMOVE DISORDERLY PERSONS WHEN THAT PERSON'S CONDUCT INTERFERES WITH THE ORDERLY PROGRESS OF THE MEETING; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Ordinance No. 1975-16, as amended, regulates the conduct of meetings of the Board of County Commissioners; and

WHEREAS, the Board wishes to authorize the Chairman to better deal with disorderly persons, including requesting the assistance of law enforcement in the removal of a disorderly person when that person's conduct interferes with the orderly progress of the meeting.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA that:

SECTION ONE: Amendment to Section One, Paragraphs 2 and 3 of Ordinance No. 1975-16, as amended, codified as Sections 2-37 and 2-38 in the Code of Laws and Ordinances.

2. Addressing the Commission:

- a. If a subject is not on the agenda for a meeting of the Board of County Commissioners it may be added by motion and an affirmative vote of a majority of all Board members present that the subject should not be delayed until the next meeting.
- b. Any person appearing to provide the Board factual information or expert opinion to consider prior to taking official action shall be governed by the following procedure:
 - (1) Prior to addressing the Board the speaker shall approach any podium or any other place otherwise designated by the Board of County Commissioners for this purpose and clearly state his or her full name, home address, the name of the person or entity that he or she represents and the subject of his or her address.

[22-BCC-00993/1745115/1]

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Words underlined are added; words struck through are deleted.

Exhibit C – Ord. 2022-34

- (2) Before providing factual information or expert opinion the speaker may ask, and any Commissioner may require the speaker to be placed under the following oath with right hand upraised:

"I willfully swear under oath the facts and testimony I furnish this Board to be the truth, the whole truth and nothing but the truth, and not inconsistent or contradictory with other statements made by me under oath."

No person shall be required to take this oath more than once in any given day, but shall be reminded he is under oath before again addressing the Board. Each commissioner, shall take the oath one time and be considered under oath during the term of his office.

Those asking questions or desiring to comment on a matter before the Board shall not be required to take the oath. Any Commissioner may at any time request such a speaker to take the above oath.

- (3) Each person shall limit his address to three minutes unless granted additional time by the Chairman or by an affirmative vote of the majority of the Board members present. All remarks shall be to the Board as a body and not to any individual member. No person other than a Commissioner shall discuss directly or through a Commissioner, without authorization of the presiding officer.
- (4) ~~Any person making impertinent or slanderous remarks or who becomes boisterous shall be instructed to remain silent by the presiding officer, until permission to continue is granted. The Chairman may:~~
- a) interrupt, warn, or terminate a speaker's statement when such statement is too lengthy, abusive, obscene, irrelevant or repetitive;
 - b) request any individual to leave the meeting when that person does not observe reasonable decorum;
 - c) request the assistance of law enforcement officers in the removal of a disorderly person when that person's conduct interferes with the orderly progress of the meeting;
 - d) call for a recess or an adjournment to another time when the lack of public decorum so interferes with the orderly conduct of the meeting as to warrant such action.

3. Sergeant-at-arms:

The County Sheriff, or his deputy, shall be the sergeant-at-arms at meetings of the Board of County Commissioners and ~~shall carry out all orders of the Chairman to maintain~~ may assist the Chairman in maintaining order and decorum, including the removal of a disorderly person when requested by the Chairman.

[22-BCC-00993/1745115/1]

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Words underlined are added; words struck through are deleted.

Exhibit C – Ord. 2022-34

SECTION TWO: INCLUSION IN THE CODE OF LAWS AND ORDINANCE

The provisions of this Ordinance shall become and be made a part of the Code of Laws and Ordinances of Collier County, Florida. The sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or any other appropriate word.

SECTION THREE: CONFLICT AND SEVERABILITY

In the event this Ordinance conflicts with any other Ordinance of Collier County or other applicable law, the more restrictive shall apply. If any phrase or portion of the Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion.

SECTION FOUR: EFFECTIVE DATE

This Ordinance shall become effective upon filing with the Department of State.

PASSED AND DULY ADOPTED by the Board of County Commissioners of Collier County, Florida, this 13th day of September, 2022.

ATTEST:
Crystal K. Kinzel, Clerk of Courts

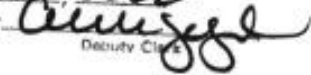
BOARD OF COUNTY COMMISSIONERS
COLLIER COUNTY, FLORIDA

By: 
Attest as to Chair County Clerk
signature only.

By: 
William L. McDaniel, Jr., Chairman

Approved as to form and legality:


Jeffrey A. Klatzkow, County Attorney

This ordinance filed with the
Secretary of State's Office the
21st day of SEPT, 2022
and acknowledgement of that
filing received this 22nd
of SEPT, 2022 day
By: 
Deputy Clerk

[22-BCC-00993/1745115/1]

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Words underlined are added; words struck through are deleted.

Exhibit D – CCPC Summary

On June 1, 2023, the CCPC unanimously recommended approval, contingent upon requiring the initial NIM to be held in person and requesting that staff update both amendments to address the their suggested changes, including but not limited to the following: allowing the second NIM (when necessary) to be held virtual-only; eliminating the text that would require the applicant to provide reasonable accommodations for disabled people; requiring an audible copy of the audio/video recording of the NIM and that it (and/or a written summary) be promptly provided to staff to post onto the County’s website for public inspection; capturing written comments when videoconferencing is used; defining “attendees” as members of the public; assigning the applicant as the decision maker to determine if a NIM should be adjourned; and ensuring that security detail personnel are licensed and qualified. The amendments are to return to the CCPC on consent agenda.

On August 17, 2023, the LDC amendment and companion amendment to the Administrative Code returned to the CCPC on consent agenda. The CCPC recommended approval of the non-substantive changes, including additional edits, along with the changes requested by staff at the meeting, generally summarized as follows:

- Modify the portion of the staff report dedicated to the CCPC recommendation, by striking out “/or,” to clarify and ensure that the County continues to require written summaries of NIMs, which are to be provided by the applicants.
- In the Administrative Code, modify *Meeting Follow up* by striking out “/or” to clarify and require the applicant to provide an audio/video recording of each NIM.
- Include a hyphen between “in” and “person” so that it indicates, “in-person.”