



Legislation Text

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Department of Community Development

Reference: Section 17-8-60 of the Municipal Code - Notice Code Amendment

To: Mayor Kenneth J. Kreutzer and Members of City Council

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PURPOSE

City staff is requesting that the City Council amend the current public notice requirements found in Section 17-8-30 of the *Municipal Code*, as well as a few other minor sections of the Code involving public notice for public hearings. The amendments are to create uniformity in how all projects are noticed to the public.

BACKGROUND

The *Municipal Code* contains provisions for public notice requirements for projects that involve public hearings. Different types of projects have different public hearing requirements. Some projects require only a mailing to adjacent property owners and some projects require a mailing to property owners within 300 feet of the project, notifications signs posted on site, and a notice placed in the paper. This variety in notification requirements for different projects can lead to confusion on the part of applicants as well as citizens looking to be informed of development.

At a recent City Council meeting, it was requested of staff to review the notification requirements to ensure they made sense and were working to effectively notify citizens. After reviewing the Code, staff believes the most equitable solution is to require that all projects have the same notification requirements when a public hearing is involved. Staff is recommending the changes outlined below to the notifications for Planned Unit Developments (PUDs), Preliminary Plats, and Final Plats. These changes to the Code will require all current development applications requiring a public hearing to mail a notice to all property owners within 300 feet, post sign(s) on the property, and publish the notice of public hearing in the newspaper.

Under the proposed Code, both the staff and the applicant will share the responsibility for the notifications. The applicant will provide mailing labels to staff when they submit an application and staff will mail the notice when a public hearing date is set. Staff will provide the applicant with the appropriate number of signs to post on the property and the applicant will be responsible for ensuring the signs are posted on the property and remain erected until the public hearing (and any continuances) has been held. Staff will also send a legal advertisement of the public hearing to the newspaper when a public hearing has been scheduled. This proposed amendment to the Code differs from the existing Code because it requires the applicant to be responsible for posting the signs on the property instead of placing that responsibility on City staff.

SUMMARY OF PROPOSED CODE AMENDMENT

Staff recommends Section 17-8-30(f) of the "Brighton Municipal Code" be repealed in its entirety and readopted to read

as follows:

- (f) Notice. When notice is required to be mailed, posted or published by the Land Use and Development Code or Colorado law, the following shall apply:
- (1) The notice shall contain a brief description of the approval, land use, development, permit or other action for which the notice is given, a description of the subject property sufficient to advise the public of the location thereof, the purpose of the hearing, date, time, place, reviewing authority and the office and telephone number at the City where further information is available for inspection.
 - (2) Publication notice. A notice of a public hearing may be made in a newspaper, publication, general mailing or other source of general public information, whether in print or electronically, within the City as designated for the purpose by the City Council. Such notification shall occur at least once no less than fifteen (15) calendar days prior to the public hearing, provided that the Director, City Manager or City Council may direct that additional publications be made and the timing thereof.
 - (3) Property owner notice.
 - (i) Written notice shall be sent by regular mail, postage prepaid, to each property owner as determined from the list provided by the applicant as required above or as determined by the Director, at least fifteen (15) calendar days prior to the public hearing. The information contained in said official notice shall be consistent with the information as set forth in Paragraph (1) above. The Director, City Manager, Planning Commission or City Council may direct that, notwithstanding other requirements, notification letters be sent to surrounding property owners to provide notice of proposed developments based upon the scope of the potential external impacts of the proposed land use, development or project. The extent of the mailed notification letters shall be determined by the Director, City Manager, Planning Commission or City Council. Failure of an owner to receive the required notice shall not affect the validity of the hearing or the application.
 - (ii) Not less than thirty (30) days before the date scheduled for the initial public hearing on an application for development, the applicant shall send notice, by certified mail, return receipt requested, or by a nationally recognized overnight courier, to the mineral estate owners identified in the county tax assessor's records or who has filed in the office of the county clerk and recorder in which the subject property is located a request for notification. Such notice shall contain the time and place of the initial public hearing, the nature of the hearing, the location and legal description by section, township, and range of the property that is the subject of the hearing and the name, address and contact information of the applicant.
 - (4) Posting of property. If posting is required by the Land Use and Development Code, Director, City Manager, Planning Commission or City Council, public notice signs shall be placed upon properties under consideration, as provided below. The posting is to provide opportunity for public notice to owners of surrounding properties and the general public. Unless otherwise specified, such notice shall be posted on the premises in question at least fifteen (15) calendar days prior to the public hearing.
 - a. The Community Development Department shall provide a sufficient number of signs to be posted on the subject property as required herein, indicating there is a pending development action by the applicant. The applicant shall ensure that one (1) sign is posted along each public road frontage that is visible from the public right-of-way and such additional location(s) as required by the Director for at least fifteen (15) calendar days prior to the date fixed for the hearing. Prior to the hearing, the applicant shall verify to the Director that the required notice has been sent to the mineral estate owners, and the date thereof, that signs have been posted, the locations of the posting, the date of posting and the same shall remain posted as herein required. Should the hearing be continued or postponed, all posted signs shall be maintained by the applicant until a final decision is made.
 - b. Failure to maintain the required posting shall not affect the validity of the hearing or the application.
 - c. In instances in which there are more than five (5) abutting and contiguous properties that are under separate ownership and are part of the same application, the Director shall determine the number of signs that shall be required for posting in the most visible location from an adjacent public right-of-way.
 - d. In the instance that the public hearing is continued or a decision is postponed, all posted signs shall remain on the property until a decision is made.
 - (5) Notice for additional hearing dates. If the notice set forth in Paragraphs 17-8-30(f)(2), (3) and/or (4) above, has been provided, no further notice is required if the reviewing authority adjourns or continues the hearing to a certain date.
 - (6) Neighborhood meetings. The Director may, at any time during the review and approval process, require that a neighborhood meeting be held to discuss proposed development projects. The purpose of a neighborhood meeting is to allow neighborhood residents to communicate to the City and the applicant any issues, concerns or comments that they might have regarding a proposed development project at the discretion of the Director.

Neighborhood meetings may be held during the preapplication stage, internal review stage and/or final disposition stage.

- (7) Development sign. Within thirty (30) calendar days of zoning approval by the City Council, the developer and/or landowner shall cause to have erected on the zoned property a sign providing information pertaining to the development and zoning of the property. At a minimum, the following information, conditions and specifications are required:
- a. The sign shall be at least fifteen (15) square feet in size and no more than twenty (20) square feet in size, with a maximum height of eight (8) feet.
 - b. The sign shall be placed on the property so as to be visible to the public from nearby streets, trails and/or adjacent public areas. Where the property abuts public right-of-way along more than one (1) of its property lines, a sign shall be placed at each such location.
 - c. At a minimum, the following information shall be included within each development sign:
 1. The zoned property lies within the municipal boundary of the City;
 2. A map, outline or site plan of the zoned property as approved by the City Council during the zoning process;
 3. The zoning that has been approved;
 4. Name of the developer and/or landowner of the zoned property and an address, phone number and/or web site where they might be contacted for project information; and
 5. A statement that additional information may be obtained from the City of Brighton Planning Division at a current telephone number and the address of the City's website.
 - d. The sign shall remain on the property until such time as the property has an approved final subdivision plat or construction has commenced on the property.
 - e. The Director, Planning Commission or City Council may require the erection of a development sign for other land use and development approvals in accordance with the requirements of this Subsection.

Section 17-16-110(d)(5) of the "Brighton Municipal Code" is repealed in its entirety and readopted to read as follows:

- (5) Public notice. Prior to Planning Commission and/or City Council review, the Community Development Department shall provide public notices of the pending action in accordance with the requirements of Sec. 17-8-30(f), BMC, as the same may be amended.

Section 17-40-200(2) the "Brighton Municipal Code" is repealed in its entirety and readopted to read as follows:

- (2) In accordance with Article 17-40, Subdivision Regulations, of the Brighton Land Use and Development Code, as amended from time to time, the Planning Commission shall hold a hearing on the preliminary plat. Notices of the public hearing for preliminary plats shall be as provided in Sec. 17-8-30(f), BMC, as the same may be amended.

Section 17-40-210(3) the "Brighton Municipal Code" is repealed in its entirety and readopted to read as follows:

- (3) The City Council shall hold a hearing on the final plat in the manner set forth herein. Notices for final plats shall be as provided in Sec. 17-8-30(f), BMC, as the same may be amended. The City Council shall approve, disapprove or approve the final plat with modifications. If the final plat is disapproved, the reasons shall be stated in writing and a copy of the reasons furnished to the subdivider within thirty (30) days of the final decision of the City Council.

PLANNING COMMISSION RECOMMENDATION

On March 13, 2018, the Planning Commission reviewed the proposed Code amendment. After a brief discussion to ensure they understood the proposal, the Planning Commission voted unanimously to recommend approval of the Code amendment as it was presented. That recommended version is the one included in this packet.

STAFF RECOMMENDATION

As the City continues to grow, it is important that developers and citizens have a reliable means of being informed of upcoming development. This Code amendment makes the notification process more uniform across project types and gives more predictability to the development process. Staff recommends approval of the amendment.

OPTIONS FOR COUNCIL CONSIDERATION

- Approve the Ordinance on first reading as drafted;
- Approve the Ordinance on first reading with changes;
- Continue the item to a date certain if more information is needed; or
- Deny the Ordinance as drafted.

ATTACHMENTS

- Ordinance (Draft)
- Planning Commission Resolution (Signed)
- Newspaper Notification of Public Hearing
- Presentation Slides