

ORDINANCE 2021-

AN ORDINANCE RELATED TO NOTICE REQUIREMENTS AND PROCEDURES FOR PLANNING PETITIONS, AMENDING CHAPTER 46, ADMINISTRATION, PROCEDURES AND ENFORCEMENT, ARTICLE II, ADMINISTRATIVE PROCEDURES, SECTIONS 46-31, 46-32, 46-34, 46-35, AND 46-37; AND ADDING A NEW SECTION 46-45; OF THE CODE OF ORDINANCES, CITY OF NAPLES; PURSUANT TO TEXT AMENDMENT PETITION 21-T4; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER PROVISION; AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, the City of Naples Planning Advisory Board proposes and recommends a text amendment to the City's regulations to provide for clarity and consistency relating to the noticing requirement for various land use decisions; and

**WHEREAS**, adoption of the proposed amendment is in the best interest of the residents of the City of Naples.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA:**

**Section 1.** That Chapter 46, Administration, Procedures and Enforcement, Article II, Administrative Procedures, of the Code of Ordinances, City of Naples, is hereby amended to read as follows (with underlining indicating additions and ~~strikethrough~~ indicating deletions):

**Chapter 46 - ADMINISTRATION, PROCEDURES AND ENFORCEMENT**

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**ARTICLE II. -ADMINISTRATIVE PROCEDURES**

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**Sec. 46-31. - Amendments to comprehensive plan.**

- (a) The procedure set forth in F.S. §163.3161 et seq., the Local Government Comprehensive Planning and Land Development Regulation Act, as amended, shall be complied with in all respects for the adoption of amendments to the comprehensive plan of the city.
- (b) The affirmative vote of 4 members of the city council shall be required to approve such amendments.
- (c) Petitions for amendments to the comprehensive plan may be obtained from the city manager. Completed petitions shall be returned to the city manager, along with the required fee and supportive materials. The city manager will submit such material, along with a staff report and recommendation, to the planning advisory board. ~~The city manager shall notify owners of property located within 500 feet of the property~~

~~involved in the petition, informing them of the date, time, place and reason for the public hearing. Failure to notify all owners of property located within 500 feet by mail will not render any action taken on such petition void. Public notice will be provided pursuant to Section 46-45.~~

**Sec. 46-32. - Petition to rezone property; petition for change in text.**

- (a) *Initiation.* Petitions to rezone property may be initiated by the city council, the planning advisory board or the owner of the property involved. Change in text petitions may be initiated by the city council, the planning advisory board or the city manager.
- (b) *Method of approval.* Rezone and change in text petitions shall be acted upon by ordinance. An ordinance changing the text of this Land Development Code may be adopted by a majority vote of the councilmembers present and voting. The affirmative vote of four members of the city council shall be required to approve an ordinance rezoning property. Whenever the city council has denied a petition for the rezoning of property, the planning advisory board shall not thereafter:
  - (1) Consider any further petition for the same rezoning of any part or all of the same property for a period of 12 months from the date of such action, unless the rezoning will bring the property into compliance with the comprehensive plan.
  - (2) Consider a petition for any other kind of rezoning on any part or all of the same property for a period of six months from the date of such action, unless the rezoning will bring the property into compliance with the comprehensive plan.
- (c) *Review and approval procedure.*
  - (1) Petition forms may be obtained from the city manager. Completed petitions shall be submitted to the city manager, together with the required fee and supportive materials as required by the city manager, at least 44 days prior to the meeting of the planning advisory board at which the petition is to be considered. Petitions received less than 44 days in advance of a meeting will be placed on the agenda of the next planning advisory board meeting. Rezone petitions for planned developments exceeding five acres in size shall be submitted no less than 90 days prior to the meeting of the planning advisory board at which the petition is to be considered.
  - (2) ~~The city manager shall review the petition and, if the city manager determines the petition to be in order, notice of public hearing before the planning advisory board shall be advertised in a newspaper of general circulation in the city at least 15 days prior to the public hearing, setting forth the date, time and place that the petition will be considered by the planning advisory board.~~
  - (3) ~~In the case of a rezone petition initiated by the property owner, the city manager shall notify owners of property located within 500 feet of the~~

~~property involved in the petition, informing them of the date, time, place and reason for the public hearing. In addition, the city manager shall place a sign in a prominently visible location on the subject property containing information as to the date, time, place and purpose of the public hearing. Failure to notify all owners of property located within 500 feet by mail will not render any action taken on such petition void. Public notice will be provided pursuant to Section 46-45.~~

(4 2) In the case of rezone petitions initiated by the city council or the planning advisory board, the procedures set forth in F.S. § 166.041, as amended, relative thereto shall be followed.

(5 3) At the public hearing, the planning advisory board shall hear the petitioner or the petitioner's designated representative and all other interested parties who may appear and request to be heard.

(6 4) As soon as practicable after the public hearing, the planning advisory board shall submit its recommendation for approval or disapproval, or approval with conditions, in writing, together with the minutes of the hearing, to the city council. The recommendation of the planning advisory board shall be placed on the agenda for the next regular meeting of the city council following receipt of the recommendation or as soon thereafter as may be practicable.

(7 5) After considering the recommendation of the planning advisory board, the city council may approve or deny the petition, or approve the petition with conditions. Conditions in addition to those recommended by the planning advisory board may be imposed by the city council.

(8 6) The city council reserves the right to require a model or other visualization before approval of any rezone or change in text.

(d) *Standards for consideration of change in zoning.* Except where the proposal for the rezoning of property involves an extension of an existing district boundary, no change in the zoning classification of land shall be considered which involves less than five acres of land, except for the "C" Conservation zone district, in which the subject property is not required to have street frontage, and the "PS" Public Service zone district, in which the subject property may have a minimum lot of 30,000 square feet and a minimum lot width of 150 feet.

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#### **Sec. 46-34, Approval of conditional uses.**

(a) *Conditional use defined; time limits; conformance with approved plans. Definition.* A conditional use is a use that would not be appropriate generally or without restriction throughout a particular zoning district, but may, if controlled as to number, area, location and relation to the neighborhood and based upon the design and character of a particular development proposal, be appropriate.

(b) *Time limits.* Any conditional use granted by the city council shall expire 12 months after the date of approval of such conditional use unless a building permit based upon and incorporating the conditional use is issued within the 12-month period, or, if a building permit is not required, the expiration date shall be 12 months from the date of approval if by that date the use for which the conditional use was granted has not been commenced. An approved conditional use which ceases operation for a period of 12 months shall expire. In either event, the petitioner may appeal to the city council for an extension of time.

(c) *Expansion and applicability.* A conditional use, as approved by the city council, may be expanded unless specifically conditioned otherwise, and permitted uses may be added to the property, as long as all expansions meet the requirements of the Land Development Code and do not expand the parcel of property as described in the resolution approved by the city council for the conditional use. In addition, the city manager must determine, after a review of the guidelines and standards listed in subsection (d f) of this section, that no changes are being made to the site plan which would adversely affect the project or surrounding neighborhood. For uses which are not dependent upon the issuance of a building permit, a conditional use is valid for the petitioner only. An approved conditional use may be revoked at any time by city council under the guidelines of subsection (e g) of this section, upon making a finding that the operation of the conditional use has resulted in the violation of city ordinance or in the violation of the conditions of approval of the conditional use.

(b d) *Method of approval.* Conditional uses listed in a particular zoning district may be permitted by resolution of the city council after an application for such conditional use has been submitted to the planning advisory board and after a duly authorized public hearing on the question has been held and the planning advisory board has voted to recommend approval or disapproval.

(e e) *Review and approval procedure.*

- (1) Conditional use petitions may be obtained at the city offices and may be initiated by the owner of the subject property or the owner's designated representative. This petition must be completed and returned to the city manager, along with the required fee and the necessary supportive materials as required by the city manager, including a development and site plan, at least 44 days prior to the planning advisory board meeting at which the petition is to be considered. Petitions received later than 44 days in advance of any scheduled board meeting will be placed on the agenda of the next meeting.
- (2) The city manager shall review the petition, and if it determines the petition to be in order, notice of public hearing before the planning advisory board shall be advertised in a newspaper of general circulation in the city at least 15 days prior to the public hearing, setting forth the date, time and place that the petition will be considered by the planning advisory board.
- (3) The completed petition shall be circulated by the city manager to various department heads, as applicable. The department head or the department head's designee shall carefully consider whether or not the specific rules

governing district and supplementary district regulations relative to the department head's specific areas of responsibility have been met, and shall carefully consider the guidelines or standards for conditional uses where applicable. Each department head shall make written comments and recommendations, and shall include the reasons therefor.

- (4) ~~Prior to the public hearing, the city manager shall notify owners of property located within 500 feet of the subject site, informing them of the date, time, place and reason for the public hearing. In addition, the city manager shall place a sign in a prominently visible location on the subject property which contains information as to the date, time, place and reason for the hearing. Failure to notify all owners of property within 500 feet of the subject site shall not render the hearing void. Public notice will be provided pursuant to Section 46-45.~~
- (5) At the public hearing, the planning advisory board shall hear the petitioner or the petitioner's designated representative and all other interested parties who appear and request that they be heard, shall consider the recommendation of the department heads, and shall consider the standards or guidelines set out in subsection (d f) of this section. As soon as practicable after the public hearing, the board shall submit its recommendation to the city council, in writing, together with the minutes of the hearing, whether to approve, disapprove or approve the conditional use with conditions.
- (6) After consideration of the recommendation of the planning advisory board, and after the petitioner has been given an opportunity to be heard, and only after making a specific finding that the standards or guidelines set out in subsection (d f) of this section have been met, the city council may, by a majority vote of the members present and voting, and by resolution, grant or deny the conditional use or grant it conditional upon such alternate and additional restrictions, stipulations and safeguards as may be deemed necessary to ensure compliance with the intent and purpose of the zoning ordinance. Such conditions, when required by the city council, shall be made a part of the conditional use. Violation of such conditions which are made a part of the terms under which the conditional use is granted shall be considered a violation of this Land Development Code. Conditions in addition to those imposed by the planning advisory board may be imposed by the city council. The planning advisory board and the city council shall cite their reasons in accordance with the guidelines or standards set out in subsection (d f) of this section for granting, denying or conditioning the conditional use request.
- (7) The city council reserves the right to require a model or other visualization before approval of any conditional use.

(d f) *Standards for approval.* In its deliberations concerning the granting of a conditional use, the planning advisory board and the city council shall carefully consider the following guidelines and standards:

- (1) Ingress and egress to the subject property and the proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic generation flow and control, and access in case of fire or catastrophe, shall be adequate and not potentially detrimental to existing or anticipated uses in the vicinity and particularly not detrimental to property immediately adjacent to the subject site.
- (2) Off-street parking and loading areas, where required or requested by the property owner, shall be adequate and well-designed, and relate well, in terms of proximity, access and the like, to the uses intended to be serviced, with particular attention to the items listed in subsection (d f)(1) of this section and the smoke, noise, glare, dust, vibrations, fumes, pollution or odor effects related to the vehicular use area or the conditional use, and such shall not be detrimental to the adjoining properties in the general area.
- (3) Refuse and service areas, with particular reference to the items listed in subsections (d f)(1) and (2) of this section, shall be adequately screened so as not to be visible from adjacent properties or a public right-of-way and shall be located in such a way as not to be a nuisance, by virtue of smoke, noise, glare and the like, to adjacent properties.
- (4) Utilities, whether public or private, shall be adequate and not detrimental with reference to location, availability, adequacy and compatibility.
- (5) Screening, buffering or separation of any nuisance or hazardous feature, with reference to type, dimensions and character, shall be fully and clearly represented on the submitted plans and shall be adequate to protect adjacent properties.
- (6) Proposed signs and exterior lighting shall be considered with reference to glare, traffic safety and compatibility and harmony with surrounding properties and shall be determined to be adequate, safe and not detrimental or a nuisance to adjacent properties.
- (7) A determination shall be made that the proposed development will not hinder development of the nearby vacant properties with a permitted use in the subject zone district.
- (8) The land and buildings which are involved shall be adequate, in terms of size, shape, type of building and the like, to ensure compatibility with the proposed conditional use.
- (9) The proposed development shall be compatible and appropriate with respect to adjacent properties and other property in the district and geographic area.
- (10) The collective impact of similar non-residential conditional uses shall not result in a single service district or have a negative effect on adjacent property values.

(e) *Revocation procedures for conditional uses that are not dependent upon the issuance of a building permit.* City council may revoke a previously approved conditional use upon making the following findings in a public hearing:

- (1) The operation of the conditional use has resulted in a violation of city ordinance or the conditions upon which the conditional use was approved, as substantiated by a ruling of the code enforcement board under the guidelines of chapter 2, article VII; or
- (2) The operation of the conditional use has proven to be detrimental to the general welfare of the residents of the city.

**Sec. 46-35, Expanding, enlarging or changing a nonconformity.**

(a) *Nonconformity defined; continuation generally.*

- (1) A nonconformity is a lot, structure or use of land, or any combination thereof, which was lawful before government action but no longer meets the regulations contained in this Land Development Code because of said government action. Government action includes, but is not limited to:
  - a. An ordinance amendment;
  - b. A "use permitted" which is changed to a conditional use or a use that is no longer a permitted use;
  - c. Annexation;
  - d. Rezoning; or
  - e. condemnation of land for the public benefit.
- (2) Except when other provisions of this land development code specifically require elimination of nonconformities, a nonconformity may be continued so long as it remains otherwise lawful, subject to the provisions of this section. Repairs, maintenance and improvements on nonconformities may be carried out provided that such work does not increase the nonconforming aspect and does not conflict with the requirements of this section.
- (3) Nothing in this section shall eliminate required compliance with applicable laws or ordinances relative to the safety and sanitation of a building occupied by a nonconforming use.
- (4) If any nonconformity is damaged or destroyed by fire, flood, explosion, collapse, wind or other like catastrophe it may be replaced to the density, height, parking, landscaping, and setback conditions which existed at the time of the catastrophe, provided that permits for the rebuilding are issued within one year of the catastrophe unless an extension of time has been approved by the city council. The burden of proof of the catastrophic conditions of the property rests with the property owner. Other applicable city, state, and federal regulations must be met in replacements proposed under this section.

- (5) If for any reason a nonconforming use of land or of a structure ceases for a period of more than 12 months, the land or structure shall not thereafter be put to a nonconforming use. An affected property or business owner may request the city council to approve up to two six-month extensions of time, which may be granted for good and sufficient cause.
- (6) Single-family residences:
  - a. Additions to nonconforming single-family residences, housing conforming uses, shall be permitted if the addition complies fully with setback and all other applicable regulations.
  - b. If a lot contains both a principal residence and a guest unit which is deemed nonconforming, the principal residence may be demolished and rebuilt while retaining the right to the guest unit, provided that the demolition permit is issued simultaneously with a building permit for the construction of a new principal residence and said building permit does not expire. All requirements of section 56-91 (guest units) shall remain in effect.
- (7) Notwithstanding limitations imposed by other provisions of this land development code, any nonconforming lot of record which was in single and separate ownership on the date of adoption of the ordinance from which this land development code is derived, or amendment which made the lot of record nonconforming, may be used as permitted by the district regulations of the zone in which the lot is located. This provision shall apply even though such lot of record fails to meet the requirements for width or area, or both, that are generally applicable to it, provided that all yards and other requirements not involving area or width of lot shall conform to the regulations for the district in which the lot of record is located.
- (8) When two or more contiguous, vacant, nonconforming lots of record are in single ownership so as to form a single parcel, it may be divided and sold separately only if such division will result in parcels which meet the requirements of the zoning district in which they are located.
- (9) Any nonconformity which becomes conforming shall not thereafter be changed to a nonconformity.

(b) *Method of approval.* Except as otherwise provided by this section, no nonconformity shall be expanded, enlarged or changed to a different nonconformity except upon recommendation of the planning advisory board, after a public hearing with due public notice pursuant to Section 46-45, and approval of the city council. ~~The city manager shall notify owners of property located within 500 feet of the property involved in the petition, informing them of the date, time, place and reason for the public hearing. Failure to notify all owners of property located within 500 feet by mail will not render any action taken on such petition void.~~ Action on nonconformity petitions may be taken by resolution adopted by a majority vote of the councilmembers present without a public hearing by the city council, but only after the petitioner has been given notice and an opportunity to be heard. The city council

reserves the right to require a model or other visualization before approval of any expansion, enlargement or change in a nonconformity.

(c) *Site plan; standards for approval.* Since the size and nature of the expansion of a nonconformity may vary widely, a site plan and preliminary building plans indicating the proposed expansion or change shall be presented with each request for such expansion or change. Prior to granting an expansion or change of nonconformity, the board and the city council shall ensure that:

- (1) The expansion, enlargement or change of the nonconformity will not damage the character or quality of the neighborhood in which it is located, or hinder the proper future development of the surrounding properties.
- (2) Any nuisance feature involved is not increased.
- (3) Excessive vehicular traffic is not generated on residential streets.
- (4) An automobile parking or traffic problem is not created.
- (5) Appropriate drives, walks and buffers are installed.
- (6) Historic or natural resources are protected.

If such insurances are not possible, the requested expansion, enlargement or change shall be denied.

(d) Special regulations of seawalls and related structures that are located waterward of platted lots or unplatted parcels are contained in subsection 52-92(d)(11).

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#### **Sec. 46-37, Variances to zoning requirements.**

(a) *Definition.* A variance is a relaxation of the zoning and land development provisions of this land development code where such relaxation will not be contrary to the public interest and where, due to special conditions and circumstances peculiar to the property, a literal enforcement of the provisions of this land development code would result in unnecessary and undue hardship, or would deprive the owner of the reasonable use of property.

(b) *Filing; hearing procedures.*

- (1) A written petition must be submitted to the city manager in a form provided by the city manager demonstrating that the standards for variances as set forth in this section have been or will be met and that the filing fees as provided in the fee schedule have been paid. The petition shall be signed by or consented to in writing by all of the owners of the property for which the variance is requested. Proof of ownership is required. If a representative is

designated by the owner, the designated representative shall be deemed to have the same authority over the petition as the owner.

- (2) The city manager shall determine whether the petition is complete and sufficient. To be sufficient, the petition must be complete, accompanied by any required exhibits, and must, on its face, demonstrate that the standards for granting of a variance set out in subsection (c) have been or will be met. If the petition is not sufficient, the city manager shall notify the applicant in writing of the insufficiency within 30 days after submittal. Upon determination that the petition is sufficient, the city manager shall act upon an administrative variance petition as provided in subsection (d) or forward the variance petition to the planning advisory board for public hearing; shall provide public notice as provided in this section and where applicable, in general law; and shall prepare a staff report containing analysis and recommendations.
- (3) ~~The city manager will also notify owners, as they appear on the tax collector's tax rolls, of property located within 500 feet of the outer limit of the property described in the petition, by regular mail at least 30 days prior to the meeting of the planning advisory board at which the petition is to be considered. However, failure to notify all owners of property located within 500 feet by mail through inadvertence will not render the hearing void as long as other public notice requirements have been met. Public notice will be provided pursuant to Section 46-45.~~
- (4) Petitions will normally be placed on the agenda of the next regular planning advisory board meeting occurring at least 44 days after the petition is found by the city manager to be sufficient. The board shall hear the petition in accordance with procedures for quasi-judicial proceedings and, as soon as practicable after the public hearing, submit to the city council the minutes of the hearing and the board's recommendation in writing that the city council grant the variance with or without conditions, deny the variance, or take other action as is appropriate under the circumstances.
- (5) Upon receiving the recommendation from the planning advisory board and after providing public notice, the city council shall hear the petition, in accordance with procedures for quasi-judicial proceedings and take final agency action by resolution, which may include granting the variance with or without conditions, denying the variance or taking other action as is appropriate under the circumstances, including without limitation, remanding the petition to the planning advisory board for further hearings. Unless otherwise provided by the city council, the petition will be considered by the city council at a regular or special meeting occurring no sooner than 15, nor later than 35 days after transmittal from the planning advisory board, or as soon thereafter as may be practicable.
- (6) At the hearing, the city council shall consider the staff report, the recommendations of the planning advisory board and any other relevant testimony and evidence. The city council reserves the right to require a model or other visualization before approval of a variance. The granting of a

variance shall only be upon a specific finding that the standards enumerated in subsection (c) have been met.

- (7) A variance may be granted conditional upon such alternate and additional restrictions, stipulations and safeguards as may be deemed necessary to ensure compliance with the intent and purpose of this land development code.
- (8) In any variance petition the city council may refer, or authorize the planning advisory board to refer, a petition to a special master for hearing and recommended order in accordance with the provisions of section 46-41.
- (9) Where an applicant claims that the petition must be granted as a matter of law, such as being due to a vested right, estoppel, a Bert Harris Act or a taking claim, the claim and evidence supporting it must be presented to the planning advisory board, and to the city council, or it is deemed waived.
- (10) Except as may be clearly provided in general law or in a specific provision of this land development code, variances are not available for the purpose of allowing a use or structure that is not permitted in a district.
- (11) A variance is not a matter of right. The city council reserves the right to deny a variance for any lawful reason.

(c) *Variance criteria.*

- (1) At the quasi-judicial hearing, the petitioner has the burden of proving by competent, substantial evidence, that the following criteria have been met:
  - a. *Threshold criteria.* All of these threshold criteria must be met or no variance will be granted:
    1. Literal interpretation of the code would cause an unnecessary or unreasonable hardship, or would deprive the applicant of the reasonable use of the property.
    2. The variance will be otherwise consistent and in harmony with the general intent and purpose of the comprehensive plan, the land development code, and adjacent properties' zoning.
    3. The variance does not permit the establishment or enlargement of any use or structure devoted to a use that is not permitted by right in the district in which the variance is requested.
    4. The variance will not harm the health, safety, and welfare of the community.
    5. The applicant has taken all reasonable steps to mitigate,

relocate, or redesign the structure so that a variance would be unnecessary.

6. The variance will be compatible in character and scale and will not be injurious to the neighborhood and surrounding properties.
7. The plight of the applicant is due to unique circumstances not created by the applicant. For purposes of this provision the applicant is not considered to stand in the shoes of their predecessors in interest.

b. *Additional criteria.* If the threshold criteria have been met, the variance may be approved if the case for approving a variance clearly outweighs the case for denial as to the following factors:

1. The city council will determine whether or not the applicant is culpable for the actions of its agent or predecessors in title.
2. The proposed variance is the minimum necessary to make possible reasonable use of the land, building, or structure, and is the most practical or logical solution to the need for relaxation of the literal requirements of this land development code.
3. Special conditions or circumstances exist that are peculiar to the land or structure involved, which are not applicable to other lands or structures in the same neighborhood or district.
4. The variance is necessary for the construction, reconstruction, or preservation of contributing historical buildings and structures and maintains the historical or architectural style, form, or character of the original building in keeping with the period when it was built.
5. The variance will promote or preserve natural resources and the natural environment.

The city council will not consider the petitioner's financial gain or loss in making its determinations.

(d) *Variances; administrative.*

- (1) Except as may be prohibited by general law, the city manager is authorized to grant administrative variances, upon petition and payment of the filing fees provided in the fee schedule, where the deviation from the regulations is minimal, that is, not exceeding ten percent. The city manager shall consider and apply the same standards in considering an administrative variance as would be applied by the planning advisory board and city council.

- (2) The city manager shall provide prior notice to adjacent property owners when considering petitions to vary residential setbacks, height, and spatial perception; shall provide notice to other owners within 1,000 500 feet of the outside limits of the property 30 days prior to making a final determination on the petition; and may refer any administrative variance petition to the planning advisory board and city council.
- (3) Administrative variances shall only apply to the existing structure, and shall not apply to any reconstruction or future construction on the property.-The administrative variance may be recorded with the Collier County Clerk of Court.
- (e) *Violations.* In addition to any other penalty provided in this chapter, a violation of any condition of a variance may be a cause for voiding the variance or placing further conditions upon a variance. Such action may be taken by council upon notice to the owner, and hearing.

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#### **Sec. 46-45, Notice Requirements**

- (a) Applicability This section provides the notice requirements for public hearings of petitions including but not limited to amendments to the comprehensive plan, petitions to rezone property, conditional uses, expanding, enlarging or changing a nonconformity and variances to zoning requirements.
- (b) This section shall not supersede or replace the notice requirements of Florida State Statutes. These notice requirements shall be in addition to State requirements.
- (c) No later than 30 days prior to the first public hearing, the city manager shall notify owners of property located within 1,000 feet of the property involved in the petition informing them of the date, time, place and reason for the public hearing. The 1,000 feet from the property involved in the petition shall be measured from each point along the outermost property boundary line of the project. A project shall include all properties that are within the area that is part of a common advertising scheme or promotional plan, and includes the joint use of internal roadways, internal recreational facilities or parks, amenities, or water, sewage, or drainage facilities. In the event the property involved in the petition is located within a planned development zoning district and the proposed petition affects the entire planned development, the city manager shall notify all owners of property within the planned development and all owners of property within 1,000 feet of the outermost planned development boundary. Failure to notify any owner of property as provided herein by mail will not render any action taken on such petition void.
- (d) No later than two weeks prior to the first public hearing, the petitioner must post and maintain a notice on each street frontage of the property in a size and format established by the City and in a location that is visible from the street. The posting will remain in place for the duration of the public hearings for the consideration of the

petition. The applicant will provide evidence to the City that the sign has been posted and maintained for the duration of the petition. The removal of the posting in response to weather conditions or other unavoidable events or by an unauthorized third party will not render any action taken on such petition void, provided that the sign is immediately reinstated by the petitioner.

(e) In addition, the public hearings will be noticed by methods deemed appropriate by the rules, regulations and bylaws of the city, its city council, boards and committees and as may be adopted by resolution or ordinance.

**Section 7.** That if any word, phrase, clause, subsection or section of this ordinance is for any reason held unconstitutional, invalid, or ineffective, the same shall not affect the validity of any remaining portions of this ordinance. In such event, the pre-existing word, phrase, clause, subsection or section, will be revived.

**Section 8.** That all sections or parts of sections of the Code of Ordinances, City of Naples, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

**Section 9.** That this ordinance shall take effect immediately upon adoption at second reading.

**APPROVED AT FIRST READING AND PUBLIC HEARING THE 15TH DAY OF NOVEMBER 2021.**

**ADOPTED AT SECOND READING AND PUBLIC HEARING IN OPEN AND REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA THE 15TH DAY OF DECEMBER 2021.**

Attest:

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Patricia L. Rambosk, City Clerk

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Teresa Heitmann, Mayor

Approved as to form and legality:

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Nancy Stuparich, City Attorney

Date filed with City Clerk: \_\_\_\_\_