

# POLK COUNTY DEVELOPMENT REVIEW COMMITTEE STAFF REPORT

<b>DRC Date:</b>	February 27, 2025	<b>Level of Review:</b>	Level 4
<b>PC Date:</b>	April 2, 2025	<b>Type:</b>	LDC Text Amendment
<b>BoCC Dates:</b>	April 15, 2025	<b>Case Numbers:</b>	LDCT-2025-4
	May 6, 2025	<b>Case Name:</b>	Mail Notice Expansion to 1,000 feet
<b>Applicant:</b>	Polk County	<b>Case Planner:</b>	Andrew Grohowski, Planner II

<b>Request:</b>	An LDC text amendment to Chapter 9, Section 960, Public Notice, subsection 960.A Types of Public Notice, to change the distance for which mail notices are to be sent to area property owners from 500 feet to 1,000 feet; providing for severability; providing an effective date.
<b>Location:</b>	n/a
<b>Property Owner:</b>	n/a
<b>Parcel Size (Number):</b>	n/a
<b>Development Area:</b>	n/a
<b>Nearest Municipality:</b>	n/a
<b>DRC Recommendation:</b>	Approval
<b>Planning Commission Vote:</b>	7:0 Approval

## The change to Chapter 9, Section 960(A), Types of Public Notice are:

- Deleting the current text of a 500-foot distance in which mail notices are to be sent to area property owners and replacing it with 1,000 feet.

## Summary:

The request is to amend the text of the Land Development Code (LDC) to create a new distance requirement for noticing the public via postal mail for hearings before the Planning Commission and Board of County Commissioners (BoCC). The impetus for this amendment is County-initiated and serves to extend the mailing notification radius by an additional 500 feet. Therefore, the total distance in which mail notices are to be sent to property owners will be 1,000 feet.

Public involvement in civic issues is one of the cornerstones of democracy upon which the United States was founded. Staff believes that public notice and involvement is an essential tool in order to practice inclusive planning and do what is best for the County as a whole.

This amendment continues the County's historic practice of noticing the public and maintains the County's commitment to going beyond what is required by Florida Statutes. In most cases, Florida Statutes only require a legal ad to be published in a newspaper of general circulation and the property owner of the *subject site* be sent a notice by mail. The amendment will still require Polk County's three means of advertising a public hearing:

- 1) the subject property is posted with signs,
- 2) a legal ad is published, and
- 3) both the subject site and surrounding properties are noticed via mail in order to notice the public of an impending hearing.

Staff has conducted a random sampling of cases within the past few years to calculate the anticipated cost increases. The costs will be incurred by higher advertising fees, but Staff finds they are not significant enough to hinder or disincentivize applicants moving forward.

This amendment applies to all future and proposed cases in the unincorporated areas of the County that must go before Planning Commission and BoCC, regardless of the Future Land Use Map district.

### **Data and Analysis Summary**

Staff has reviewed past ordinances dating back to November 4, 1970, and found the distance for postal mailing notifications was changed prior to 2002 to 500 feet. When the LDC was adopted in 2000 (Ord 00-09), mailed notices required a notification distance of 250 feet from the subject site to surrounding property owners.

There are no conflicts with the Comprehensive Plan or Florida Statutes in the implementation of this amendment. Chapters 125 and 163 of the Florida Statutes address the minimum time required to notify ordinance or resolution changes in the newspaper and postal mail to the property owner only.

### **Findings of Fact**

1. *The request is a County-initiated Land Development Code text amendment to Chapter 9, Section 960, Public Notice, subsection 960.A Types of Public Notice, to change the distance for which mail notices are to be sent to area property owners from 500 feet to 1,000 feet.*
2. *This amendment applies to all cases brought to hearing before the Planning Commission and Board of County Commissioners. This distance does not apply to cases presented before the Land Use Hearing Officer which will remain at 250 feet.*
3. *Chapter 125.66 of the Florida Statutes states that “In cases in which the proposed ordinance or resolution changes the actual zoning map designation”... “the Board of County Commissioners” ... “shall direct its clerk to notify by mail each real property owner”... “such notice shall be given at least 30 days prior to the date set for the public hearing.”*
4. *Chapter 163.3225 of the Florida Statutes state that “notice of intent to consider a development agreement shall be advertised approximately 7 days before each public hearing in a newspaper of general circulation”... “[and] shall also be mailed to all affected property owners before the first public hearing.”*
5. *Article V, Section 5-4.5 of Ord 70-03 states “whenever property is proposed to be rezoned, the owners of property situated within two hundred and fifty (250) feet of the proposed rezoning shall be given written notice”...*
6. *Between the Land Development Code adoption in 2000 and the year 2002, Staff was directed by the BoCC to change the mailing distance to 500 feet. Within that time frame, the 500-foot distance was implemented.*
7. *On March 7, 2012, Ord 12-009 was passed and amended Section 960 of the LDC in its entirety, codified the public notice requirements for all types of cases, and clarified the standards for noticing the public for public hearings.*
8. *Planning Staff has reviewed the land development requirements of 14 jurisdictions that bear commonalities with Polk and the two largest municipalities in the County. Staff found two jurisdictions that do not require mail notices to surrounding property owners. This proposal would be the highest distance of the 14 jurisdictions reviewed.*

## **Development Review Committee Recommendation:**

The Land Development Division, based on the information provided with the proposed text amendment application, finds that the proposed text change request is **CONSISTENT** with the Polk County Land Development Code and the Polk County Comprehensive Plan. Staff recommends **APPROVAL** of LDCT-2025-4.

## **Planning Commission Recommendation:**

*At an advertised public hearing on April 2, 2025, the Planning Commission voted 7:0 to recommend APPROVAL of LDCT-2025-4 to the Board of County Commissioners after hearing public testimony.*

## **Analysis**

### **Introduction**

Section 960 of the Land Development Code has served as the important link between the County and its citizens for which it serves. Public involvement is always encouraged, and this amendment intends to promote this vital right with additional mailed notices of Planning Commission and BoCC hearings to more residents in the vicinity of a potential proposal.

Staff has conducted a random sampling of ten Level 3 and Level 4 cases within the past three years. These cases are presented to the Planning Commission and/or the Board of County Commissioners. Depending on the size of properties and the population density, the sampled study found that projects varied in the number of additional mailed notices that would be required under the new ordinance (*Exhibit 1*). Some cases had four-hundred twenty-six (426) additional mailers (LDCPAL-2024-14) while others only had eleven (11) more mailers (LDCCD-2023-12).

The change in cost will vary, as well. Currently, each mailed notice costs approximately sixty-three (63) cents. If the 1,000' distance is implemented, the total cost of mailed notices for the Large-Scale Comprehensive Plan Amendment in Poinciana (case #: LDCPAL-2024-14) will increase by about two-hundred sixty-eight (268) dollars per mailing. Staff anticipates this drastic increase due to the case being located in the Poinciana area. Poinciana consists of numerous multi-family and single-family subdivisions on approximately 47,000 acres. The large array of lots packed closely next to one another increases the likelihood that the additional distance will lead to a higher number of mailers compared to a rural area of the County. Meanwhile a Comprehensive Plan Map amendment in Fort Meade (case #: PDCPAS-2024-11) will increase the cost of mailers by only four (4) dollars if the new distance criteria is implemented. The sample attempts to accurately reflect a range of cases that varied by type and location. Based on the sample, the average cost increase of the ten randomly chosen cases was about sixty (60) dollars.

The type of case will determine how many times a mailed public notice will be sent. For example, a Level 4 Small-Scale Comprehensive Plan Amendment (LDCPAS) or a Level 4 Conditional Use (LDCU) will be mailed twice – one notice prior to the Planning Commission hearing and another prior to the BoCC hearing. Meanwhile mailings for a Large-Scale Comprehensive Plan Amendment (LDCPAL) are sent three times – once prior to the Planning Commission hearing and twice prior to the two BoCC hearings. Therefore, the total cost outlined previously will vary depending on how many times the public hearing notice is sent (*Exhibit 1*).

It is important to understand while this proposal will increase the number of notified individuals, there will always be persons who will not be included in the public notification via U.S. postal mail. While

all cases are considered important from a County-wide perspective, from a local perspective, the mailed notices become less and less effective or relevant the further the distance from the subject site.

## **Benefit-cost Analysis of the Amendment**

### *Who does it help?*

This ordinance will help expand the notification radius of proposed amendments, conditional uses, and other cases that go before the Planning Commission and BoCC. It encourages more public participation since the mailed notices will be sent to more property owners near the subject site. The higher number of citizens notified will hopefully spur further community engagement and public involvement.

### *Who does it hurt?*

The distance to increase mailed notifications by 500 feet will not hurt the property owners or surrounding businesses in the County. The increase in distance may lead to diminished returns if there were to be additional mailers. Broader populations carry the assumption that the proposed case holds high importance and can instigate more cause for concern or worry.

Depending on the type of case, individuals or businesses with smaller budgets will be the most impacted by these costs. Smaller projects with limited capital such as individual mobile homes will bear the full brunt of these cost increases, which can widely range depending on location (*Exhibit 1*).

### *What is the cost?*

Staff has analyzed potential costs with ten cases randomly selected over the past few years. Factors such as the size of the subject property, size of surrounding properties and population densities will vary the quantity of mailed notices sent within the proposed 1,000-foot buffer. Based on the sample conducted (*Exhibit 1*), the average increase in cost for each case is about sixty (60) dollars. As previously mentioned, different groups will feel different impacts on the increase in cost.

## **Regulatory History**

On November 4, 1970, Polk County's first zoning ordinance required a mailed notice to all property owners within 250' of the property proposed to be rezoned (Ord 70-03). This distance requirement was unchanged when the LDC was updated in 2000 (Ord 00-09). Staff was then directed by the Board to change the mailing distance to 500 feet, which was implemented sometime prior to 2002. Since then, the surrounding properties within a 500-foot distance of the subject site are notified via U.S. postal mail. On March 7, 2012, a staff-initiated proposal amended Section 960 of the LDC by listing all the cases brought to hearing by the Office of Planning and Development, except for cases dealing with phosphate mines including operating permit renewals, mine plans and plan amendments but did not change the mailing distance (Ord 12-009).

## **Limits of the Proposed Ordinance**

This proposal applies to all applications in the unincorporated portions of the County that are subject to public hearings subject to Planning Commission and BoCC review. The new distance does not apply to variances, special exemptions, and temporary special exceptions presented before the Land Use Hearing Officer (LUHO). These mailed notices will remain at 250 feet. LUHO cases range from setback variances to alcohol sales. From a public notification standpoint, LUHO cases are more

relevant on a neighbor-to-neighbor basis rather than notifying larger quantities of property owners outside the 250-foot distance requirement. Per Section 960(A) on all cases, a minimum of 12 landowners must be notified via postal mail which is not subject to change in this amendment.

### Comparisons to Other Jurisdictions:

Staff commonly survey counties on the I-4 corridor for regulatory comparisons because they are most closely similar to Polk. Some of the abutting counties are reviewed along with the two largest cities within the County (Lakeland and Winter Haven). Alachua and Duval counties are also reviewed because of similar demographic and urban-rural mixtures to Polk County. This method of selection creates a survey of 14 total local jurisdictions. Staff found two jurisdictions that did not provide mailing notices. Another jurisdiction only sends mailing notices to adjacent properties.

**Table 1**

<b>Jurisdiction</b> <i>(Code citation)</i>	<b>How far are mail notices sent on land use cases?</b>	<b>What other forms of public notice are provided?</b>
<b>Alachua County</b> <i>Section 402.11-16</i>	750 feet	Newspaper Advert 7 days prior Signs every 400 feet of frontage 48 hours after application has been accepted til 10 days after hearing
<b>Brevard County</b> <i>Section 62-252</i>	None	Published once, at least 15 days prior to the public hearing in a newspaper of general circulation within the county.
<b>Duval County</b> <i>Section 656.124</i>	350 feet	Newspaper Advert 14 days prior Signs every 200 feet of frontage
<b>Hardee County</b> <i>Section 10.09.00</i>	300 feet	Newspaper Advert 10 days prior Signs 10 days prior (< 10 contiguous acres) Mailed 10 days prior to PC, 30 days prior to BoCC
<b>Highlands County</b> <i>Section 12.06</i>	500 feet	Newspaper Advert 10 days prior, second publication 5 days prior Mailed 15 days prior
<b>Hillsborough County</b> <i>Section 10.03.02(E)</i>	500 feet (AG/R-1) 300 (elsewhere)	Newspaper Advert 15 days prior Second mailed notice to all parties of record at least 20 days prior to BoCC
<b>Lake County</b> <i>Section 14.00.05</i>	300 feet	Newspaper Advert 10 days prior Signs 10 days prior Mailed 10 days prior
<b>Manatee County</b> <i>Section 312.7</i>	500 feet	Newspaper Advert 10 days prior Signs 10-40 days prior; 15 feet from the front lot line Mailed 10 days prior
<b>Orange County</b> <i>Section 30-44</i>	300 feet	Newspaper Advert 15 days prior Sign 10 days prior Mailed 10 days prior
<b>Osceola County</b> <i>Article 2.3</i>	300 feet	Newspaper Advert Signs 10 days prior
<b>Seminole County</b> <i>Section 30.3.4</i>	Urban: 500-1,500 Rural: 1,500 – 5,000	Signs 15 days prior (2 minimum) Mailed 15 days prior (every 5 acres increases distance by 500' (urban) or 1000' (rural))
<b>Volusia County</b> <i>Sec. 72-414 &amp; Sec. 72-2</i>	Adjacent properties	Newspaper Advert 10 days prior Sign 10 days prior Mailed 10 days prior (30 days, rezoning)
<b>City of Lakeland</b> <i>Section 12.6</i>	None	Newspaper Advert 10 days prior Mailed 30 days prior to property owners
<b>City of Winter Haven</b> <i>Sec. 21-491</i>	500 feet	Newspaper Advert 15 days prior Sign 15 days prior, every 300 feet of frontage Mailed 15 days prior

All jurisdictions except Brevard County and the City of Lakeland provide public notice via mail to surrounding property owners. Volusia County only mails notices to adjacent property owners. While all jurisdictions vary in distance requirements, this proposal would be one of the highest distances throughout nearby jurisdictions.

## **Consistency with the Comprehensive Plan**

The Comprehensive Plan does not specify public notification criteria.

## **Consistency with the Florida Statutes**

For proposed ordinance changes or map amendments, the Florida Statutes requires a legal ad in the newspaper and notice by mail thirty (30) days in advance to the affected property owner only. For development agreements, the newspaper advertisement is approximately seven (7) days before the public hearing. Meanwhile, mailed notices regarding development agreements do not specify a time frame, but must be sent to affected property owners before the first public hearing. The Florida Statutes do not specify nearby owner notification nor sign postings. Local jurisdictions decide whether or not mailed notices are sent to nearby property owners and by how far.

**Comments from Other Agencies:** None.

**Draft Ordinance:** Under separate attachment.

## **Exhibits**

Exhibit – 1      Price Research

**Exhibit 1**

<b>Project Number</b>	<b>500 feet buffer (# of mailers)</b>	<b>1000 feet buffer (# of mailers)</b>	<b>Change (# of mailers)</b>	<b>Increase (%)</b>	<b>Cost per Mailer 500 feet (\$)</b>	<b>Cost per Mailer 1000 feet (\$)</b>	<b>Change in Cost (Approx.)(\$)</b>
LDPD-2022-15	55	138	83	150	34.65 <i>(sent 1x)</i>	86.94 <i>(sent 1x)</i>	<b>52.00</b>
LDCU-2023-63	449	511	62	13	282.87 <i>(sent 2x)</i>	321.93 <i>(sent 2x)</i>	<b>39.00</b>
LDCD-2023-12	20	31	11	55	12.60 <i>(sent 1x)</i>	19.53 <i>(sent 1x)</i>	<b>7.00</b>
LDCU-2024-20	138	198	60	43	86.94 <i>(sent 2x)</i>	124.74 <i>(sent 2x)</i>	<b>38.00</b>
LDCPAS-2024-4	65	112	47	72	40.93 <i>(sent 2x)</i>	70.56 <i>(sent 2x)</i>	<b>30.00</b>
LDCD-2024-3	12	39	27	225	7.56 <i>(sent 1x)</i>	24.57 <i>(sent 1x)</i>	<b>17.00</b>
LDPD-2022-12	29	98	69	237	18.27 <i>(sent 1x)</i>	61.74 <i>(sent 1x)</i>	<b>43.47</b>
LDPD-2023-11	71	221	150	211	44.73 <i>(sent 1x)</i>	139.23 <i>(sent 1x)</i>	<b>95.00</b>
LDCPAL-2024-14	192	618	426	222	120.96 <i>(sent 3x)</i>	389.34 <i>(sent 3x)</i>	<b>268.00</b>
PDCPAS-2024-11	14	21	7	50	8.82 <i>(sent 2x)</i>	13.23 <i>(sent 2x)</i>	<b>4.00</b>