

### **2.3 Public hearing and public notice requirements and procedures.**

- A. General requirements for notice of hearing. Due public notice is required for all public hearings. Unless Florida Statutes or the City of Holmes Beach Land Development Code specifically provide otherwise, due public notice shall include notice by publication, written notice, and posting of signs. Applicant shall be responsible for any and all required notice by publication, written notice, and posting of signs. In the event that this article conflicts with applicable statutory provisions, the statutory notice procedures shall apply.
1. Notice by publication. The applicant for a land use or development approval requiring a public hearing shall provide notice to the public by publication in a newspaper of general circulation in Manatee County not fewer than 15 days prior to the date set for public hearing. The city shall provide a standard form for publication notice that shall be completed by an applicant and submitted for publication. Proof of publication shall be filed with the city clerk no less than five days prior to the date set for public hearing.
  2. Written notice. The applicant for a land use or development approval requiring a public hearing shall provide written notice to property owners within 500 feet of the subject property, which notice shall be mailed by certified mail, in an envelope with a legible return address, not fewer than 15 days prior to the date set for public hearing. A list of such owners shall be taken from the latest ad valorem tax record in the Manatee County Property Appraiser's Office. Notice to the addresses shown on the latest ad valorem tax record of the property appraiser's office is deemed to be notice to all owners of said property. Such notice shall be in substantially the same form as the standard form for publication notice provided by the city. Affidavit of proof of the required mailing shall be filed with the city clerk no less than five days prior to the date set for public hearing.
  3. Posting of signs. The applicant for a land use or development approval requiring a public hearing shall post a sign meeting standards and containing information furnished by the city. The sign shall be posted not fewer than seven days prior to the date set for public hearing. The sign shall be posted on the property that is the subject of the public hearing in such a manner that said sign is clearly visible from a public or private street. Affidavit of proof of the required posting of the sign shall be filed with the city clerk no less than five days prior to the date set for public hearing.
  4. [Compliance.] The failure of a property owner to receive notice shall not invalidate an action if a good faith attempt was made to comply with the foregoing notice requirements.
- B. Public hearing.
1. An order of proceedings for a hearing will depend in part on the nature of the hearing. The following shall be supplemented by the particular hearing board's procedures as appropriate:
    - a. Before receiving information on the issue, the following shall be determined:
      - (1) Any objections on jurisdictional grounds shall be noted in the record, and if there is objection, the person presiding has the discretion to proceed or terminate.
      - (2) Any conflicts of interest shall be disclosed.
    - b. The person presiding at the hearing may take official notice of known information related to the issue such as the following:

- (1) Provisions of state law or of an ordinance, resolution, rule or official policy of the city.
  - (2) Other public records and facts judicially noticeable by law.
- c. The hearing body may view the area in dispute with or without notification to the parties.
  - d. Information shall be received from the building official and from proponents and opponents. The presiding officer may approve or deny a request from a person attending the hearing to ask a question. Unless the presiding officer specifies otherwise, if the request to ask a question is approved, the presiding officer will direct the question to the person submitting testimony.
  - e. When the public hearing has ended, the hearing body shall openly discuss the issue and may further question a person submitting information or the building official if opportunity for rebuttal is provided.
2. Following the hearing procedure described in subsection B.1, preceding, the hearing body shall approve or deny the application. If the hearing is an appeal, the hearing officer shall affirm, reverse or remand the decision that is on appeal. A decision on a hearing shall be made within 60 days of the first hearing. With the agreement of the hearing body and an applicant or appellant, the processing of a matter under consideration may be extended for a reasonable period of time as determined by the hearing body, but may not exceed six months from the date of the first hearing on the matter.
  3. The city clerk or his/her designee shall be present at each hearing and shall create a record of the proceedings.
    - a. No stenographic record by a certified court reporter is required by this section. Any person who decides to appeal any decision with respect to any matter considered at a public hearing will need a record of the proceedings, and for such purpose, will be responsible for ensuring that a verbatim record of the proceedings is made. Such record shall include the testimony and evidence upon which the appeal is based.
    - b. Testimony shall be transcribed if ordered by the hearing body.
    - c. The hearing body shall, where practicable, retain as part of the hearing record each item of physical or documentary evidence presented and shall have the items marked to show the identity of the person offering the same and whether presented on behalf of a proponent or opponent. Exhibits received into evidence shall be retained in the hearing file until after the applicable appeal period has expired, at which time the exhibits may be released to the person identified thereon, or otherwise disposed of.
    - d. The written findings and order shall be included in the record
    - e. Any person shall have access to the record of the proceedings at reasonable times, places and circumstances. A person shall be entitled to make copies of the record at the person's own expense.

(Ord. No. 07-04, § 2(Exh. A), 3-27-07; Ord. No. 12-10, § 5, 10-23-12)

**City of Holmes Beach  
Public Notice Procedure**

**CHECKLIST FOR APPLICANT**

\_\_\_\_\_ 1. ORDER MAILING LABELS FROM PROPERTY APPRAISER ASAP

***NOT FEWER THAN 15 DAYS PRIOR TO HEARING DATE:***

- \_\_\_\_\_ 1. MAIL CERTIFIED/ REGISTERED RETURN RECEIPT LETTERS
- \_\_\_\_\_ 2. PUBLICATION OF LEGAL AD (NOTICE) IN NEWSPAPER of GENERAL CIRCULATION IN MANATEE COUNTY.

***NOT FEWER THAN 7 DAYS PRIOR TO HEARING DATE:***

- \_\_\_\_\_ 1. POST SIGN(S) ON PROPERTY

***NO LESS THAN 5 DAYS PRIOR TO HEARING DATE:***

- \_\_\_\_\_ 1. AFFIDAVIT OF MAILING NOTICE TURNED IN TO CITY CLERK.
- \_\_\_\_\_ 2. AFFIDAVIT OF PROOF OF PUBLICATION TURNED IN TO CITY CLERK.
- \_\_\_\_\_ 3. AFFIDAVIT OF PROOF OF REQUIRED POSTING TURNED IN TO CITY CLERK.

***SUGGESTIONS TO APPLICANT;***

1. MAIL A CERTIFIED NOTICE TO THE CITY OF HOLMES BEACH AND TO YOURSELF AS WELL TO INSURE CORRECT NOTICING DATE. (ATTACH TO THE AFFIDAVIT OF MAILING NOTICE IF TIME ALLOWS.)
2. TAKE A PHOTO OF THE SIGN AFTER POSTING, SHOWING DATE ON PHOTO, TO ATTACH TO THE AFFIDAVIT OF SIGN POSTING.

***FOR FURTHER INFORMATION CALL 941-708-5800.***

**City of Holmes Beach**  
**NOTICE FOR PUBLIC HEARINGS**

**APPLICANTS INSTRUCTIONS**

**(Please read this entire packet before beginning process)**

**1. Packet provided:**

- a. "Notice of Hearing template"-----(*Attachment 1a*)
- b. "Affidavit of Mailing Notice"-----(*Attachment 1b*)
- c. "Notice of Hearing Sign template"-----(*Attachment 1c*)
- d. "Affidavit of Sign Posting"-----(*Attachment 1d*)
- e. "Affidavit of Publication"-----(*Attachment 1e*)
- f. Copy of Ordinance No. 04-03

**2. Obtaining Labels and mailing list:**

- a. Manatee County Property Appraiser's office  
915 4<sup>th</sup> Avenue W., Bradenton, FL 34205  
*(Contact person: john.richards@co.mymanatee.org 941-748-8208 x 4674 Fax: 941-742-5664)*  
Request (3) sets of mailing labels with lists of names and addresses for all property owners within 500 feet of any portion of the subject property. (REQUEST THAT PI# BE LEFT OFF OF LABELS- Post Office requirements)

**3. Mailing process: (Must be mailed not fewer than 15 DAYS prior to hearing date!!)**

- a. Get Certified Mail Receipts (for domestic mailing) and Registered Mail Receipts (for Canada, Mexico or International), from the US Postal Service. Contact them regarding the procedure for certified or registered mailing.
- b. No less than (5) days prior to hearing date complete the "***Affidavit of Mailing Notice***" (**Attachment 1b**) before a notary public (City Hall has notary public available)
- c. Submit a copy of the mailing list and Affidavit of Mailing Notice to the City Clerk at City Hall.

**4. Publish Notice in Newspaper: Must be published not fewer than 15 DAYS prior to Hearing!**

- a. See attached list for publications. (page 2)
- b. Contact Legal Classified Advertising Department several days prior to desired publication date. Place a regular legal ad using the "***Notice of Hearing template***" (**Attachment 1a**).
  - a. No less than five (5) days prior to the date set for public hearing an "***Affidavit of proof of publication***" (**Attachment 1e**) must be filed with the City Clerk.
- c. **Post Sign(s) on property: (Must be posted not fewer than 7 DAYS prior to hearing date and remain posted until after the hearing!)**
  - a. Applicant must provide a 2' X 3' weatherproof sign for posting on the property in such a manner that the sign is clearly visible from a public street or private street. Sign must contain information about the hearing as shown in "***Notice of Hearing sign template***" (**Attachment 1c**).
  - b. No less than (5) days prior to the date set for a public hearing an "***Affidavit of sign posting***" (**Attachment 1d**) shall be filed with the City Clerk.

**PUBLICATIONS OF GENERAL CIRCULATION IN MANATEE:**

**(Only one required)**

1. Bradenton Herald  
102 Manatee Avenue W., Bradenton, FL 34205  
(Contact person is [legalnotices@bradenton.com](mailto:legalnotices@bradenton.com) , 941-745-7066)

***or***

2. Manatee Herald-Tribune  
905 6<sup>th</sup> Avenue W.  
Bradenton, FL 34205  
(Contact person is [ht.legals@heraldtribune.com](mailto:ht.legals@heraldtribune.com) , 941-745-7809)

***(Please call City Hall at 941-708-5800  
if you have any questions)***

**City of Holmes Beach**  
**NOTICE FOR PUBLIC HEARINGS**

**APPLICANTS INSTRUCTIONS**

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**1. Packet provided:**

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- d. "Affidavit of Sign Posting"-----(*Attachment 1d*)
- e. "Affidavit of Publication"-----(*Attachment 1e*)
- f. Copy of Ordinance No. 04-03

**2. Obtaining Labels and mailing list:**

- a. Use the "Search/ Labels request" form provided in this packet.
- b. Request (3) sets of mailing labels with lists of names and addresses for all property owners within 500 feet of any portion of the subject property. Check COB- 500 FT box. **(REQUEST THAT PI# BE LEFT OFF OF LABELS- Post Office requirements)**

**3. Mailing process: (Must be mailed not fewer than **15 DAYS** prior to hearing date!!)**

- a. Get Certified Mail Receipts (for domestic mailing) and Registered Mail Receipts (for Canada, Mexico or International), from the US Postal Service. Contact them regarding the procedure for certified or registered mailing.
- b. No less than (5) days prior to hearing date complete the "***Affidavit of Mailing Notice***" (**Attachment 1b**) before a notary public (City Hall has notary public available)
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- a. See attached list for publications. (page 2)
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  - b. No less than (5) days prior to the date set for a public hearing an "***Affidavit of sign posting***" (**Attachment 1d**) shall be filed with the City Clerk.

**MANATEE COUNTY PROPERTY APPRAISER  
SEARCH /LABELS REQUEST**

NAME: \_\_\_\_\_ DATE OF REQUEST: \_\_\_\_\_

COMPANY: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

PHONE: \_\_\_\_\_ FAX: \_\_\_\_\_ CELL: \_\_\_\_\_

PID NUMBERS OR ADDRESS OF SUBJECT PROPERTY: \_\_\_\_\_

PROJECT # (FROM PLANNING): \_\_\_\_\_

DATE NEEDED BY: \_\_\_\_\_ MAIL DATE: \_\_\_\_\_

**CHECK APPROPRIATE BOX:**

COUNTY - 500 FT	<input type="checkbox"/>	COB - 300 FT	<input type="checkbox"/>	COP - 300 FT	<input type="checkbox"/>
STREET VAC - 250 FT	<input type="checkbox"/>	COHB - 500 FT	<input type="checkbox"/>	COBB - 00 FT	<input type="checkbox"/>
COAM - 00 FT	<input type="checkbox"/>	OTHER _____			

# SETS OF LABELS: \_\_\_ ALL OWNERS ON LABELS: YES  NO

THERE IS A MINIMUM CHARGE OF \$25.00 PLUS \$0.01 PER LABEL FOR EACH REQUEST. THE REQUESTOR WILL BE NOTIFIED BY PHONE OR E-MAIL UPON COMPLETION. THE CHARGE FOR REQUESTS MAY BE HIGHER DEPENDING ON THE SIZE OF THE SEARCH.

**THERE IS A MINIMUM OF 10 WORKING DAYS FOR COMPLETION.**

CUSTOMER SIGNATURE OR E-MAIL ADDRESS: \_\_\_\_\_

**\*\*\*FOR OFFICE USE ONLY\*\*\***

COMPLETED: \_\_\_\_\_ TOTAL NUMBER OF PARCELS: \_\_\_\_\_

BY: \_\_\_\_\_ INVOICE NUMBER: \_\_\_\_\_

DATE CUSTOMER NOTIFIED: \_\_\_\_\_ COST: \_\_\_\_\_

DATE PICKED UP: \_\_\_\_\_ SAVED AS: \_\_\_\_\_

Contact Angie at (941)748.8208 - Ext. 5653 for additional information.

**COMPLETED FORM MAY BE FAXED TO (941)742.5664.**

**PUBLICATIONS OF GENERAL CIRCULATION IN MANATEE:**

**(Only one required)**

1. Bradenton Herald  
102 Manatee Avenue W., Bradenton, FL 34205  
(Contact person is [legalnotices@bradenton.com](mailto:legalnotices@bradenton.com) , 941-745-7066)

***or***

2. Manatee Herald-Tribune  
905 6<sup>th</sup> Avenue W.  
Bradenton, FL 34205  
(Contact person is [ht.legals@heraldtribune.com](mailto:ht.legals@heraldtribune.com) , 941-745-7809)

***(Please call City Hall at 941-708-5800  
if you have any questions)***

Type	Board or Commission	Section 1 of Attachment 1a language
Variance/Expansion of non-conformity	Board of Adjustment	Application # _____, property owner(s) _____ requesting a variance from Holmes Beach Code Section LDC, Art _____, Address _____ Legal Description is _____, PI# _____
Vacation	City Commission	Application # _____, property owner(s) _____ requesting a vacation of _____ Legal Description of property to be vacated _____, PI# _____
Rezone	City Commission	Application # _____, property owner(s) _____ requesting a rezone from _____ to _____ Address _____ Legal Description is _____, PI# _____
Site Plan	City Commission	Application # _____, property owner(s) _____ requesting a site plan approval at Address _____ Legal Description is _____, PI# _____
Comprehensive Plan Amendment	City Commission	Application # _____, property owner(s) _____ requesting a comprehensive plan amendment to _____ Address _____ Legal Description is _____, PI# _____



**City of Holmes Beach**

**AFFIDAVIT OF MAILING NOTICE  
MANATEE COUNTY, FLORIDA**

I \_\_\_\_\_ being first duly sworn, depose and say that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, I mailed a true and correct copy of the attached Notice of Public Hearing.

This Notice was for the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_, (A.M./P.M.), for said Public Hearing, to all persons to whom any real property is assessed within five hundred (500) feet of any property therein proposed for (variance, site plan, rezone, etc.) all as shown on the attached list, by properly addressing an envelope to each person or to "occupant" where a tenant's name was not known, placing a copy of the Notice in each envelope, and sealing the envelope and mailing the same, Certified Mail, Return Receipt Requested, with postage fully prepaid, from a United States Post Office box in \_\_\_\_\_, Florida, all in accordance with City of Holmes Beach Ordinance No. 04-03.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

State of Florida  
County of Manatee

Subscribed and sworn to before me on \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_\_.

\_\_\_\_\_  
Signature

\_\_\_\_\_, Notary Public  
Print Name

\_\_\_\_\_  
County, Florida

\_\_\_\_\_  
Expiration of Commission

# PUBLIC HEARING to request

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at \_\_\_\_\_  
(Address of property)

on \_\_\_\_\_  
(Date, Time)

At Holmes Beach City Hall,  
5801 Marina Drive  
Holmes Beach, FL 34217

For additional information call  
941-708-5833, 8:00 a.m.- 4:00 p.m.

Case File # \_\_\_\_\_

**City of Holmes Beach**

**AFFIDAVIT OF SIGN POSTING  
MANATEE COUNTY, FLORIDA**

I \_\_\_\_\_ being first duly sworn, depose and say that on  
the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, a sign was placed at this address:

\_\_\_\_\_

noticing a public hearing for a \_\_\_\_\_ on the \_\_\_\_\_ day of  
\_\_\_\_\_, 20 \_\_\_\_\_, at \_\_\_\_\_, (A.M./P.M.)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

State of Florida  
County of Manatee

Subscribed and sworn to before me on \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_\_.

\_\_\_\_\_  
Signature

\_\_\_\_\_, Notary Public  
Print Name

\_\_\_\_\_  
County, Florida

\_\_\_\_\_  
Expiration of Commission

**City of Holmes Beach**

**AFFIDAVIT OF PUBLICATION  
MANATEE COUNTY, FLORIDA**

I \_\_\_\_\_ being first duly sworn, depose and say that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, a legal advertisement was placed in the following publication \_\_\_\_\_ noticing a public hearing for a \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_, (A.M./P.M.)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

State of Florida  
County of Manatee

Subscribed and sworn to before me on \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_\_.

\_\_\_\_\_  
Signature

\_\_\_\_\_, Notary Public  
Print Name

\_\_\_\_\_  
County, Florida

\_\_\_\_\_  
Expiration of Commission