

Summary Table of Zoning Ordinance Section 33 (2018-20 version)

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Chapter 18. Zoning
Article IV. Procedure
Section 33 Zoning Text Amendments,
Zoning Map Amendments, Special Use Permits, and Special Exceptions

3.1 Definitions

Resubmission. For the purposes of calculating fees, “resubmission” means the submittal of additional information for review by the County in response to review comments from the County. The review comments will clearly indicate if responses to the comment constitute a resubmission. The Agent may determine whether submission of items such as additional copies of information, recorded documents, photographs, minor amendments to previously submitted items or other information constitutes a resubmission.

33.1 PURPOSE AND INTENT

The purpose and intent of section 33 is to establish the procedural and substantive requirements and criteria for considering and acting on zoning text amendments, zoning map amendments, special use permits (except for those delegated to the Board of Zoning Appeals), and special exceptions.

(§ 33.1, Ord. 12-18(7), 12-5-12, effective 4-1-13(§ 33.0, 12-10-80; Ord. 01-18(6), 10-3-01) (§ 33.1, 12-10- 80)

State law reference – Va. Code §§ 15.2-2285, 15.2-2286(A)(3), (4), (7), 15.2-2303.

33.2 UNIFORM REQUIREMENTS FOR COUNTY INITIATION OF ZONING TEXT AMENDMENTS AND ZONING MAP AMENDMENTS

The Board of Supervisors may amend, supplement, or change the zoning regulations, district boundaries, or classifications of property whenever the public necessity, convenience, general welfare, or good zoning practice requires, subject to the following initiation process:

A. Initiation of a zoning text amendment.

1. *By the Board of Supervisors.* The Board of Supervisors may initiate a zoning text amendment by adopting a resolution. Any County resident may request any Board member to ask the Board to initiate a zoning text amendment or may directly request the Board to initiate a zoning text amendment.
2. *By the Commission.* The Commission may initiate a zoning text amendment by adopting either a motion or a resolution.

B. Initiation of a County initiated zoning map amendment. Any proposed zoning map amendment is initiated: (i) by resolution of the Board of Supervisors; (ii) by motion or resolution of the Commission.

(§ 33.2, Ord. 12-18(7), 12-5-12, effective 4-1-13(§ 33.0, 12-10-80; Ord. 01-18(6), 10-3-01)(§ 33.1, 12-10- 80) (§33.2, 12-10-80) (§§ 33.2.1, 33.2.2, 33.2.3, 12-10-80; 5-5-82) (§ 33.10.2, 12-10-80, 3-10-93))

State law reference – Va. Code §§ 15.2-2285, 15.2-2286(A) (4), (7), 15.2-2302.

33.3 UNIFORM PROCEDURES FOR ZONING TEXT AMENDMENTS AND COUNTY INITIATED ZONING MAP AMENDMENTS

Each zoning text amendment and each county-initiated zoning map amendment is subject to the following provisions:

- A. The Agent may schedule work sessions before the Board of Supervisors, the Commission, and the Architectural Review Board, if applicable. The Agent may also hold stakeholder meetings, community meetings, and other forms of public engagement, as the Agent determines to be appropriate or as directed by the Board of Supervisors or the Commission, to consider any proposed zoning text amendment or zoning map amendment.
- B. *Public hearings.* Before the Board of Supervisors acts on a zoning text amendment or a zoning map amendment, the Commission will hold at least one public hearing before making its recommendation to the Board on each application. The Board also will hold at least one public hearing before acting on a zoning text amendment or a zoning map amendment.
- C. Notice of the public hearing will be provided pursuant to section [33.10](#).
- D. Recommendation by the Planning Commission.

The Commission will act on a proposed zoning text amendment or zoning map amendment under the following provisions:

- 1. *Recommendation.* The Commission will recommend either approval as proposed, approval with recommended changes, or denial.
 - 2. *Factors to be considered.* In making its recommendation, the Commission will consider the factors listed in section [33.6\(B\)](#).
- E. Action by the Board of Supervisors.

The Board of Supervisors will act on a proposed zoning text amendment or zoning map amendment under the following provisions:

- 1. *Action.* The Board may either adopt the proposed amendment, deny the proposed amendment, or refer the matter back to the Commission for further consideration and recommendation. The Board may not adopt a zoning map amendment allowing a more intensive use, or including more land, than was contained in the public notice without an additional public hearing after notice is provided pursuant to Virginia Code §§ [15.2-2204](#) and [15.2-2285](#) (C).
 - 2. *Factors to be considered.* In acting on a zoning text amendment or zoning map amendment, the Board will consider the factors listed in section [33.6\(B\)](#).
- F. *Judicial review.* Any action contesting a decision of the Board of Supervisors under this section must comply with Virginia Code § [15.2-2285\(F\)](#).

(§ 33.3, Ord. 12-18(7), 12-5-12, effective 4-1-13 (§ 33.4, 12-10-80; Ord. 03-18(2), 3-19-03) (§ 33.5, 12-10-80; Ord. 03-18(2), 3-19-03) (§ 33.8, 12-10-80; 6-19-96) (§ 33.8.1, 12-10-80, 6-19-96; Ord. 01-18(6), 10-3-01) (§§ 33.10, 33.10.1, 12-10-80))

State law reference – Va. Code §§ 15.2-2204, 15.2-2285, 15.2-2286(A)(4), (7).

33.4 UNIFORM REQUIREMENTS FOR OWNER INITIATION OF ZONING MAP AMENDMENTS AND SPECIAL USE PERMITS

The Board of Supervisors reserves the power to consider and approve or deny all applications for special use permits except where that power has been delegated to the Board of Zoning Appeals as provided in sections [4.15.7](#) or [34](#). The Board may approve special use permits for those use classifications identified in the district regulations allowing identified uses by special use permit.

The owner may initiate a zoning map amendment or special use permit application, subject to the following provisions:

- A. *Pre-application meeting.* Each prospective applicant (the “applicant”) must both complete and submit information on County-provided forms and attend a pre-application meeting (collectively, the “pre-application meeting”) before submitting an application, subject to the following provisions:
 1. *Submitting information.* The applicant must complete and submit information on County-provided forms before or during the pre-application meeting.
 2. *Purposes of a meeting.* The purposes of a pre-application meeting are to: (i) provide the applicant and the County a common understanding of the proposed project; (ii) broadly identify the Comprehensive Plan designation of the property; (iii) broadly identify issues generated by the project that should be addressed by the applicant; and (iv) notify the applicant of special studies or documentation and any other information that must be submitted in order for an application to be considered complete, including the form and the required content of any study or documentation. Information may be provided to the applicant during the pre-application meeting or in writing following the meeting.
 3. *Factors to consider in requiring meeting.* A pre-application meeting is required unless the Agent decides that the meeting would not achieve the purposes for the meeting upon considering the following factors: (i) whether the proposed use, the proposed density, the proposed scale and potential impacts, the proposed district, and other considerations the Agent determines relevant under sound zoning principles do not warrant a pre-application meeting; (ii) whether the supplemental information delineated in [subsection \(E\)](#) can be identified without the meeting; (iii) whether the application would be one of a recurring nature for which the required information and the issues raised are well-established for the proposed application; or (iv) whether the application raises any complex issues that create the need for the meeting.
- B. *Who may file an application.* An owner, a contract purchaser with the owner's consent, or the owner's authorized agent may file an application for a zoning map amendment or special use permit (collectively in this division, the "owner" or the "applicant"). In addition:

1. *Amendments to existing proffers.* Proffers that have been accepted by the Board of Supervisors in conjunction with a zoning map amendment may be amended by a later zoning map amendment. An owner whose parcel is subject to proffers may apply to amend the proffers applicable solely to that owner's parcel. An application to amend proffers is subject to the procedures and requirements of this division, provided that the requirements of this subsection may be waived if (i) the proposed amendment solely pertains to proffers that do not affect conditions of use or density, and(ii) following consultation with the Agent, the applicant submits a request to the Clerk of the Board before submitting its application for a zoning map amendment:
 - a. *Waiving the requirement for public hearings.* The Board may waive the requirement for a public hearing by the Commission or by the Board, or both, and the associated notice requirements, as otherwise required by this division. If the Board waives the requirement for a public hearing by the Commission, it also may waive the requirement for a recommendation from the Commission.
 - b. *Waiving procedural requirements.* The Board may waive one or more of the procedural requirements of subsections [\(A\)](#) and/or [\(N\)](#) and/or of section [33.10](#).
 - c. *Waiving application requirements.* The Board may waive any supplemental information that may otherwise be required with an application under subsection [\(E\)](#) and determine the number of copies of the application that must be filed.
 2. *Amendments to existing planned developments.* An owner within an existing planned development may apply for a zoning map amendment applicable solely to that owner's parcel if it would not result in or require: (i) a change in use, density, or intensity on any other parcel in the planned development; (ii) a change to any regulation in a code of development that would apply to any other parcel in the planned development; (iii) a change to any other owner's express obligation under a regulation in a code of development; or (iv) a change to the application plan that would apply to any other parcel in the planned development.
 3. *Application for a special use permit.* An eligible easement holder or an electric cooperative may file an application for a special use permit. An "eligible easement holder" is a holder of an easement for which the special use permit is sought for a use allowed by the deed of easement or equivalent instrument. For the purposes of this article, "electric cooperative" means (a) a utility consumer services cooperative formed under or subject to the Utility Consumer Services Cooperatives Act (Virginia Code § [56-231.15 et seq.](#)) or (b) a distribution cooperative formed under the former Distribution Cooperatives Act (Virginia Code § [56-209 et seq.](#))
- C. *Submitting an application.*

1. *Who must sign an application.* The application must be signed by the owner of each parcel that is subject to the proposed zoning map amendment or special use permit. In addition:
 - a. *Amendments to existing proffers.* The signatures of the owners of any other parcels subject to the same proffers are not required when an owner applies to amend the proffers applicable solely to its parcel.
 - b. *Amendments to existing planned developments.* The signatures of any other owners within an existing planned development are not required if the owner-applicant may apply for a zoning map amendment applicable solely its parcel as provided in subsection [\(B\)\(2\)](#).
 - c. *Application for a special use permit.* The application must be signed by the owner or the eligible easement holder of each parcel that is the subject of the special use permit, or by any duly authorized agent of an electric cooperative.
 - d. *Documentation regarding the authority to apply.* The Agent may require the applicant to submit documentation establishing ownership of, or the easement interest in, any parcel that is the subject of the application, the electric cooperative's signatory's authority, and the authority of each signatory to sign the application on behalf of an eligible applicant.
 2. *Application forms.* The Agent may establish appropriate application forms for zoning map amendments or special use permits.
 3. *Where to file.* The application must be filed in the Department of Community Development.
 4. *Number of copies to file.* For each class of application, the Agent may establish the number of collated copies of the application to be filed, may accept electronic applications for filing, or both.
 5. *When to file.* The Agent may establish application deadlines for each class of application
- D. *Information submitted with an application.* Each application must include all information required by this section, provided that on the owner's written request, the Agent may waive the requirement for certain information, depending on: (i) the nature or extent of the proposed zoning map amendment or special use permit; (ii) the proposed use; (iii) the proposed density; (iv) the proposed district; (v) whether the application is to establish or amend a planned development district, including a neighborhood model district; and (vi) other considerations the Agent determines relevant when applying sound zoning principles.
- E. The following information must be provided unless the Agent or Board of Supervisors determines that the information is not required:

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	Conventional Rezoning	Special Use Permit	Planned Development Districts	Neighborhood Model District
A narrative of the project proposal, including its public need or benefit	X	X	X	X
A narrative of the proposed project's consistency with the comprehensive plan, including the land use plan and the master plan for the applicable development area	X	X	X	X
A narrative of the proposed project's impacts on public facilities and public infrastructure.	X	X	X	X
A narrative of the proposed project's impacts on environmental features.	X	X	X	X
One or more maps showing the proposed project's regional context and existing natural and manmade physical conditions	X	X	X	X
The most recently recorded plat of the parcel(s) composing the proposed project, or a boundary survey if a portion of one or more parcels compose the proposed project, both of which must include a metes and bounds description of the boundaries.	X	X	X	X
Documents that verify the identity of all record title owners of the parcel(s) composing the proposed project and documents identifying the authorized signatories of the application, the proffer statement, if applicable, and all other related documents.	X	X	X	X
The name, address, telephone number and e-mail address of a single contact person for communications between the County and the applicant.	X	X	X	X
For zoning map amendments or special use permits that propose new residential development or new residential uses as defined in and subject to Virginia Code § 15.2-2303.4 , the Agent may require studies that identify the impacts of the project on public transportation facilities, public safety facilities, public school facilities, and public parks.	X	X	X	X

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	Conventional Rezoning	Special Use Permit	Planned Development Districts	Neighborhood Model District
Other special studies or documentation, if applicable, and any other information identified as necessary by the County on the pre-application comment form. The pre-application comment form will specify the form and the required content of any study or documentation.	X	X	X	X
Studies identifying cultural, historical or archeological resources potentially impacted by the proposed use.	X	X	X	X
For zoning map amendments, a local traffic impact statement as required by Virginia Code § 15.2-2222.1 and 24 VAC 30-155-40 .	X	X	X	X
If private streets are proposed, the applicant must submit a request for private streets compliant with section 14 234 .	X	X	X	X
A conceptual plan showing, as applicable, the street network, including circulation within the project and connections to existing and proposed or planned streets within and outside of the project	X	X		
A conceptual plan showing, as applicable, typical cross-sections to show proportions, scale and streetscape/cross-sections/circulation	X	X		
A conceptual plan showing the general location of any pedestrian and bicycle facilities	X	X		
A conceptual plan showing any building envelopes	X	X		
A conceptual plan showing any parking envelopes	X	X		
A conceptual plan showing any public spaces and amenities	X	X		
A conceptual plan showing any areas to be designated as conservation and/or preservation areas	X	X		
A conceptual plan showing any conceptual stormwater detention facility locations	X	X		

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	Conventional Rezoning	Special Use Permit	Planned Development Districts	Neighborhood Model District
A conceptual plan showing any conceptual grading.	X	X		
A narrative of any proffers proposed to address impacts from the proposed project	X		X	X
If the project is to amend an existing planned development district and the proposed amendment would affect less area than the entire district, the applicant must submit a map showing the entire existing planned development district and identifying any area to be added to or deleted from the district, or identifying the area to which the amended application plan, code of development, proffers or any special use permit or special exception would apply			X	X
An application plan showing, as applicable, the street network, including circulation within the project and connections to existing and proposed or planned streets within and outside of the project;			X	X
An application plan showing, as applicable, typical cross-sections to show proportions, scale and streetscape/cross-sections/circulation.			X	X
An application plan showing the general location of any pedestrian and bicycle facilities			X	X
An application plan showing any building envelopes			X	X
An application plan showing any parking envelopes			X	X
An application plan showing any public spaces and amenities			X	X
An application plan showing any areas to be designated as conservation and/or preservation areas;			X	X
An application plan showing any conceptual on-site stormwater detention facility locations			X	X

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	Conventional Rezoning	Special Use Permit	Planned Development Districts	Neighborhood Model District
An application plan showing any conceptual grading			X	X
An application plan showing, as applicable, a use table delineating use types, the number of dwelling units, non-residential square footage, building stories and/or heights, build-to lines, setbacks and yards, and other features			X	X
An application plan showing, as applicable, topography, using the county's geographic information system or better topographical information, and the source of the topographical information, supplemented where necessary by spot elevations and areas of the site where there are existing steep slopes;			X	X
An application plan showing, as applicable, the general layout for water and sewer systems;			X	X
An application plan showing, as applicable, the location of central features or major elements within the project essential to the design of the project, such as major employment areas, parking areas and structures, civic areas, parks, open space, green spaces, amenities and recreation areas;			X	X
An application plan showing, as applicable, standards of development including proposed yards, open space characteristics, and any landscape or architectural characteristics related to scale, proportions, and massing at the edge of the district			X	X
An application plan showing, as applicable, a conceptual lot layout			X	X
An application plan showing, if the application is to establish a neighborhood model district, the location of any proposed green spaces and amenities as provided in section 20A.9 .			X	X
A narrative as to the project's consistency with the neighborhood model principles				X

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	Conventional Rezoning	Special Use Permit	Planned Development Districts	Neighborhood Model District
If any characteristics of the neighborhood model delineated in section 20A.1 are missing from an application, the applicant must justify why any characteristics cannot or should not be provided				X
A statement describing how the proposed district satisfies the intent of section 20A				X
A code of development satisfying the requirements of section 20A.5				X
A parking and loading needs study that demonstrates parking needs and requirements and includes strategies for dealing with these needs and requirements, including phasing plans, parking alternatives as provided in section 4.12.8 , and transportation demand management strategies as provided in section 4.12.12 ; provided that the applicant may elect to submit the parking and loading needs study in conjunction with the preliminary site plan for the development if it determines that the uses that may occupy the buildings are not sufficiently known at the time of the zoning map amendment.				X
Strategies for establishing shared stormwater management facilities, off-site stormwater management facilities, and the proposed phasing of the establishment of stormwater management facilities				X

- F. *Payment of delinquent taxes.* The applicant must demonstrate that any taxes or other charges constituting a lien on the subject property have been paid; provided that the payment of such taxes or other charges is not required when the applicant for a special use permit is an easement holder.
- G. *Determining completeness of the application; rejecting incomplete applications.* An application that includes all required information is complete and will be accepted for review and decision. An application omitting any required information will be deemed incomplete and not be accepted.

1. *Timing of determination of completeness.* The Agent will determine the completeness of an application within ten (10) days after the first application deadline following receipt of the application.
 2. *Procedure if application is incomplete.* The Agent will inform an applicant by letter of the reasons why an application was rejected as incomplete. The letter will be sent by first class mail, be personally delivered, or (with an applicant's written consent) by fax or e-mail. The applicant has 90 days after the letter was sent or personally delivered to submit all of the information identified in the letter. The Agent will review the information submitted to determine whether the application is complete as provided in this subsection. An incomplete application will be void if the applicant fails to submit all of the information identified in the letter within 90 days after the letter was sent or personally delivered. If the applicant fails to timely submit the information identified in the letter, the applicant may proceed only by filing a new application.
 3. *Effect if timely determination not made.* If the Agent does not send or deliver a notice of an incomplete application within ten (10) days after the first application deadline following receipt of the application, the application will be deemed complete, provided that the Agent may require the applicant to later provide the omitted information within a period specified by the Agent, and further provided that the Agent may reject the application as provided herein if the applicant fails to timely provide the omitted information.
- H. *When an application is determined to be complete; effect.*
1. When the Agent determines that the applicant has submitted all required information, the Agent will determine the application to be complete. On that date (or 10 days after the first application deadline following receipt of the application, if the Agent fails to make a timely determination on the completeness of the application), the application is deemed referred to the Commission for the purpose of calculating the time in which action must be taken pursuant to subsection [\(O\)](#), except as provided in subsection [\(H\)\(3\)](#).
 2. *Notification of Applicant.* The Agent will notify the applicant by letter or by e-mail when the application has been determined to be complete.
 - a. *Notice to other owners of application for zoning map amendment to amend existing proffers.* Within ten (10) days after an application for a zoning map amendment seeking to amend existing proffers is determined to be complete, written notice of the proposed amendment will be provided to each owner subject to the same proffers, as required by Virginia Code §§ [15.2-2204\(H\)](#) and [15.2-2302](#).
 - b. *Notice to owner of application for special use permit filed by easement holder or electric cooperative when application determined to be complete.* Within ten (10) days after an application for a special use permit filed by an easement holder is determined to be complete, written notice of the proposed special use permit will be provided to each owner of the property for which the special use permit is sought, as required by Virginia Code § [15.2-2204\(H\)](#).
 - c. *Notice of completed applications to holders of open-space or conservation easements.* For zoning map amendments or special use permits pertaining to a

parcel subject to an open-space easement or a conservation easement, the Agent will provide written notice within 10 days after the application is determined to be complete to each holder of the open-space easement, other than the County, or the conservation easement. The notice will be sent by first class mail, will inform the recipient that the application has been filed, and describe the nature of the application. An action on an application will not be invalid solely because of the failure to timely mail this notice.

3. *Paying fees.* The applicant must pay the fees required by [section 35.1](#) when the application is determined to be complete or if the Agent fails to make a timely determination on the completeness of the application. The application will not be reviewed, and any time by which action must be taken by the Commission or the Board of Supervisors does not begin, until the applicant pays the fees. An application is void if the applicant fails to pay the fees either (a) within 10 days of the notice that the application is determined to be complete or (b) within twenty (20) days after the first application deadline following receipt of the application, if the Agent fails to make a timely determination on the completeness of the application. The application is determined to be complete for the purpose of calculating the time in which action must be taken pursuant to subsection [\(O\)](#) only after the required fees have been paid.
- I. *Resubmittal of application originally determined to be incomplete.* Within six (6) months of the sending of a notice of an incomplete application, as provided in subsection [\(G\)\(2\)](#), the applicant may resubmit the application with all of the information required by subsections [\(B\)-\(F\)](#) for a new determination of completeness under subsection [\(G\)](#).
- J. *Work sessions.* For any application, the Agent may schedule work sessions before the Board of Supervisors, the Commission, and/or the Architectural Review Board, if applicable, as the Agent determines appropriate considering the nature of the approval requested, the acreage affected, the possible impacts that could result from an approved application, and any other factors deemed relevant upon applying sound zoning principles, subject to the following provisions:
 1. *Purposes for a work session.* The purposes for a work session are to present the proposed project to the Board or the Commission with the Department of Community Development's analysis of the major issues, to seek direction from the Board or Commission on those issues, and to allow the Board or Commission to receive public comments.
 2. *When applicant's consent required.* The applicant's consent to a work session is required if the work session would extend the time for action by the Commission or the Board beyond the deadlines in subsection [\(O\)](#).
- K. *Community meetings.* A community meeting will be held for each application, subject to the following provisions:
 1. *Purposes for a meeting.* The purposes for a community meeting are to: (i) provide interested members of the public the opportunity to receive information about the proposed project, the applicable procedure, the policies of the comprehensive plan, other relevant policies, and regulations applicable to the proposed project; and (ii) allow the public to ask questions about the proposed project.

2. *Factors to consider in requiring meeting.* A community meeting will be held unless the Agent determines that the meeting would not achieve its purposes, considering the following factors: (i) whether the application would be likely to generate any public concerns because of the nature of the approval requested, the acreage affected, the proposed density, the proposed scale, and the potential impacts; (ii) any other factors deemed relevant upon applying sound zoning principles; and (iii) whether the applicant has already held one or more community meetings regarding the application so as to make a community meeting unnecessary.
 3. *Guidelines.* The Agent may establish written guidelines about which applications should have community meetings, and when and how to conduct community meetings, including (but not limited to): how and to whom notice should be provided for community meetings, which notice may include posting signs at the site before the meeting, who should schedule and lead the meeting, the format of the meeting, and how the issues identified at the meeting should be documented.
 4. *When applicant's consent required.* The applicant's consent to a community meeting is required if the community meeting would extend the time for action by the Commission or the Board beyond the deadlines in subsection [\(O\)](#).
 5. *Holding in conjunction with a citizen advisory committee meeting.* A community meeting may be held during a citizen advisory committee meeting.
 6. *When community meeting is to be held.* A community meeting will be held prior to the first public hearing on the application for a zoning map amendment.
 7. *Additional community meetings.* The Agent may require that an additional community meeting be held prior to a public hearing if a deferral has been requested and a project is resubmitted that is substantially different than the original project.
- M. *Public hearings.* Before the Board of Supervisors acts on a zoning map amendment or a special use permit, the Commission will hold at least one public hearing before making its recommendation to the Board on each application. The Board will hold at least one public hearing before approving an application.
- N. Notice of the public hearing will be provided pursuant to section [33.10](#).
- O. *Time for decision.* Action on each application is subject to the following provisions:
1. *By the planning Commission.* The Commission will act on each application within ninety (90) days of the first meeting of the Commission after it was referred to the Commission, according to the schedule established and administered by the Agent. The failure of the Commission to make a recommendation on the application within the ninety (90) day period will be deemed a recommendation of approval unless the applicant requests or consents to an extension of that period.
 2. *By the Board of Supervisors.* The Board of Supervisors will act on each application within a reasonable period not to exceed twelve (12) months following the first meeting of the Commission after it was referred to the Commission, according to the schedule

established and administered by the Agent, unless the applicant requests or consents to an extension of that period.

3. *Tolling.* The period for action by the Commission or the Board of Supervisors is tolled during any time(s) when the applicant has requested that the review of the application be suspended, or that the public hearings or action thereon be deferred or continued.
 4. *Referral.* The Board of Supervisors may refer an application to the Commission after the Commission has made a recommendation or the application has been deemed recommended for approval, provided that further action by the Commission and action by the Board of Supervisors is within twelve (12) months following the first meeting of the Commission after it was referred to the Commission, according to the schedule established and administered by the Agent, unless the applicant requests or consents to an extension of that period.
- P. *Recommendation by Commission.* The Commission will recommend either approval of the application as proposed, approval subject to changes prior to action by the Board of Supervisors, or disapproval. Alternatively, the Commission may defer a pending application pursuant to section [33.11](#). For any application for a zoning map amendment, the Commission's recommendation also should include its recommendations on any proposed proffers and, for any application to establish or amend a planned development district, its recommendations on the application plan, the standards of development, the code of development, and any special exception(s) requested by the applicant under section 8.2. For any application for a special use permit, the Commission's recommendation should include its recommendations on any proposed conditions.
- Q. *Action by the Board of Supervisors.* The Board of Supervisors may either approve or deny the application or may defer action to allow for changes prior to final action. In approving an application for a zoning map amendment, the Board may accept any proposed proffers as provided in section [33.7](#). In approving an application for a special use permit, the Board may impose conditions as provided in section [33.8](#).
- R. *Intensification of use classification prohibited without additional notice and hearing.* No land may be zoned to a more intensive use classification than was contained in the public notice without an additional public hearing after notice is provided as required by Virginia Code §§ [15.2-2204](#) and [15.2-2285\(C\)](#).
- S. *Resubmittal of similar denied application.* An applicant may not submit an application that is substantially the same as a denied application within one (1) year of its denial.
- T. *Judicial review.* Any action contesting a decision of the Board of Supervisors under this section must comply with Virginia Code § [15.2-2285\(F\)](#).

((§ 33.2, 12-10-80) (§ 33.4, 12-10-80; Ord. 03-18(2), 3-19-03) (§ 33.5, 12-10-80; Ord. 03-18(2), 3-19-03) (§33.6, 12-10-80) (§ 33.7, 12-10-80, 6-19-96; Ord. 01-18(6), 10-3-01) (§ 33.8, 12-10-80, 6-19-96) (§ 33.8.1, 12-10-80, 6-19-96; Ord. 01-18(6), 10-3-01) (§ 33.8.2, 12-10-80, 6-19-96) (§ 33.8.3, 12-10-80, 6-19-96); §33.4, Ord. 12-18(7), 12-5-12, effective 4-1-13; Ord. 14-18(2), 3-5-14; Ord. 16-18(3), 4-6-16; Ord. 16-18(4), 4-6-16)

State law reference – Va. Code §§ 15.2-2204, 15.2-2285, 15.2-2286(A)(3), (4), (7), (B).

33.5 UNIFORM PROCEDURES FOR SPECIAL EXCEPTIONS

Each application for a special exception is subject to the following provisions:

This section establishes the regulations and safeguards for filing, reviewing, and acting on applications for special exceptions.

Power to grant special exceptions is reserved by the Board of Supervisors. The Board of Supervisors reserves the power to consider and approve or deny all applications for special exceptions.

Matters eligible for a special exception. The Board may approve special exceptions to waive, modify, vary, or substitute any requirement of this chapter that is expressly authorized to be waived, modified, varied, or substituted.

Variations and exceptions distinguished. A special exception is not required for any matter that may be varied or excepted under section [32](#) or chapter [14](#), or for developing and constructing residential dwellings at the use, height, and density permitted by right in the applicable district as provided by Virginia Code § [15.2-2288.1](#).

- A. *Application.* Each application for a special exception must be made as provided by the applicable section of this chapter authorizing the waiver, modification, variation or substitution, and must include both the information required by that section and any studies that the Agent may require identifying the nature and extent of potential impacts resulting from the proposed special exception.
- B. *Submitting an application.*
 1. *Who must sign an application* The application may be filed only (a) by the owner, the contract purchaser with the owner's consent, or the owner's agent for the purpose of the special exception, or (b) by the easement holder of an easement where the waiver, modification, or variation for which the special exception is sought pertains to a use allowed by the deed of easement or equivalent instrument..
 2. *Documentation regarding the authority to apply.* The Agent may require the applicant to submit documentation establishing ownership of, or the easement interest in, any parcel that is the subject of the application.
 3. *Application forms.* The Agent may establish appropriate application forms for special exceptions.
 4. *Where to file.* The application must be filed in the Department of Community Development.
 5. *Number of copies to file.* The Agent may establish the number of collated copies of the application to be filed, may accept electronic applications for filing, or both.
 6. *When to file.* The Agent may establish application deadlines for special exception applications.

- C. *Determining completeness of the application; rejecting incomplete applications.* An application that includes all required information will be determined to be complete and be accepted for review and decision. An application omitting any required information will be deemed incomplete and will not be accepted.
1. *Timing of determination of completeness.* The Agent will determine the completeness of an application within ten (10) days after the first application deadline following receipt of the application.
 2. *Procedure if application is incomplete.* The Agent will inform the applicant by letter explaining the reasons why the application was rejected as being incomplete. The letter will be sent by first class mail, be personally delivered or, if consented to by the applicant in writing, by fax or e-mail. If an application is incomplete, the applicant may submit all of the information identified in the letter within 90 days after the letter was sent or personally delivered. The Agent will review the information submitted to determine whether the application is complete as provided in this subsection. An incomplete application is void if the applicant fails to submit all of the information identified in the letter within 90 days after the letter was sent or personally delivered. If the applicant fails to timely submit the information identified in the letter, the applicant may proceed only by filing a new application.
 3. *Effect if timely determination not made.* If the Agent does not send or deliver a notice of an incomplete application within ten (10) days after the first application deadline following receipt of the application, the application will be deemed complete, provided that the Agent may require the applicant to later provide the omitted information within a period specified by the Agent, and further provided that the Agent may reject the application as provided herein if the applicant fails to timely provide the omitted information.
- D. *When an application is determined to be complete; effect.*
1. When the Agent determines that the applicant has submitted all required information, the Agent will determine the application to be complete. On that date (or 10 days after the first application deadline following receipt of the application, if the Agent fails to make a timely determination on the completeness of the application), the application is deemed referred to the Commission for the purpose of calculating the time in which action must be taken pursuant to subsection [\(G\)](#), except as provided in subsection [\(D\)\(3\)](#).
 2. *Notification of Applicant.* The Agent will notify the applicant by letter or by e-mail when the application has been determined to be complete.
 - a. *Notice to owner of application for special exception filed by easement holder when application determined to be complete.* Within ten (10) days after an application for a special exception filed by an easement holder is determined to be complete, written notice of the proposed special exception will be provided to each owner of the property for which the special exception is sought as required by Virginia Code § [15.2-2204\(H\)](#).
 - b. *Notice of completed applications to holders of open-space or conservation easements.* For special exception applications pertaining to a parcel subject to an

open-space easement or a conservation easement, the Agent will provide written notice within 10 days after the application is determined to be complete to each holder of the open-space easement, other than the County, or the conservation easement. The notice will be sent by first class mail. The notice will inform the recipient that the application has been filed and describe the nature of the application. An action on an application will not be declared invalid solely because of the failure to timely mail this notice.

3. *Paying fees.* The applicant must pay the fees required by [section 35.1](#) when the application is determined to be complete or if the Agent fails to make a timely determination on the completeness of the application. The application will not be reviewed, and any time by which action must be taken by the Commission or the Board of Supervisors will not begin, until the applicant pays the fees. An application is void if the applicant fails to pay the fees either (a) within 10 days of the notice that the application is determined to be complete or (b) within twenty (20) days after the first application deadline following receipt of the application, if the Agent fails to make a timely determination on the completeness of the application. The application is determined to be complete for the purpose of calculating the time in which action must be taken pursuant to subsection [\(G\)](#) only after the required fees have been paid.
- E. Public hearings on an application for a special exception are subject to the following provisions:
1. *When public hearings are required.* The Commission and the Board of Supervisors will each hold at least one public hearing on any application for a special exception that would increase by greater than 50 percent the bulk or height of an existing or proposed building within one-half mile of an adjoining locality.
 2. *When the Board of Supervisors may elect to have the Commission make a recommendation on the application and to hold one or more public hearings.* When public hearings are not required under subsection [\(E\)\(1\)](#), the Board may elect, either by policy or for an individual application, to have the Commission first make a recommendation on the application for a special exception and for either the Commission or itself to hold one or more public hearings.
- F. Notice of the public hearing will be as provided in section [33.10](#).
- G. *Time for decision.* Each application for a special exception will be acted on by the Board of Supervisors within ninety (90) days following the first meeting of the Commission after it was referred to the Commission, according to the schedule established and administered by the Agent, or concurrently with a zoning map amendment, special use permit, or site plan appeal, whichever is longer.
- H. The Commission will act on an application for a special exception under the following provisions:
1. *When a Commission recommendation is required.* The Commission is required to act on an application for a special exception only if (a) a public hearing on the application

is required by subsection [\(E\)\(1\)](#) or (b) the Board of Supervisors elects to have the Commission consider the application under subsection [\(E\)\(2\)](#).

2. *Recommendation.* The Commission will recommend either approval of the application as proposed, approval of the application with changes to be made prior to action on the application by the Board, or denial of the application. Alternatively, the Commission may defer a pending application pursuant to section [33.11](#).
 3. *Factors to be considered.* In making its recommendation, the Commission will consider the factors, standards, criteria, and findings, however denominated, in the applicable sections of this chapter.
 4. *Conditions.* The Commission's recommendation should include its recommendations on any proposed conditions.
 5. *Time for a recommendation.* The Commission will make its recommendation on the application within 45 days after the application is determined to be complete. The failure of the Commission to make a recommendation on the matter within that period will be deemed a recommendation of approval. The 45-day period may be extended if the applicant requests a deferral pursuant to section [33.11](#).
- I. *Action.* The Board may either approve the application, deny the application, defer action to allow for changes prior to final action, or refer the application to the Commission for further consideration and recommendation within the time for an action provided in subsection [\(G\)](#).
 - J. *Resubmittal of similar denied application.* An applicant may not submit an application that is substantially the same as a denied application within one (1) year of its denial.
 - K. *Judicial review.* Any action contesting a decision of the Board of Supervisors under this section must comply with Virginia Code § [15.2-2285\(F\)](#).

(§ 33.5, Ord. 12-18(7), 12-5-12, effective 4-1-13; § 31.8, Ord. 12-18(1), 2-8-12; Ord. 16-18(3), 4-6-16)

State law reference – Va. Code § 15.2-2286(A)(3), 15.2-2288.1.

33.6 ZONING TEXT AMENDMENTS AND ZONING MAP AMENDMENTS; RELEVANT FACTORS TO BE CONSIDERED; EFFECT OF APPROVAL

A zoning text amendment or a zoning map amendment is subject to the following provisions:

- A. *Basis to act.* The Board of Supervisors may amend, supplement, or change the zoning regulations, district boundaries, or classifications of property whenever the public necessity, convenience, general welfare, or good zoning practice requires. The Commission will consider these bases when making a recommendation on an application.
- B. *Factors to be considered when acting.* The Commission and the Board of Supervisors will reasonably consider the following factors when reviewing and acting upon zoning text amendments and zoning map amendments: (i) the existing use and character of property; (ii) the comprehensive plan; (iii) the suitability of property for various uses; (iv) the trends of growth or change; (v) the current and future requirements of the community as to land for various purposes as determined by population and economic studies and other studies; (vi)

the transportation requirements of the community; (vii) the requirements for airports, housing, schools, parks, playgrounds, recreation areas and other public services; (viii) the conservation of natural resources; (ix) the preservation of flood plains; (x) the protection of life and property from impounding structure failures; (xi) the preservation of agricultural and forestal land; (xii) the conservation of properties and their values; (xiii) the encouragement of the most appropriate use of land throughout the county; and (xiv) equity.

1. *Additional factors to be considered when acting on applications to establish planned development district.* In addition to the other factors relevant to the consideration of a zoning map amendment, the Commission and the Board of Supervisors will consider the following factors when reviewing an application to establish a planned development district: (i) whether the proposed planned development satisfies the purpose and intent of the planned development district; (ii) whether the area proposed to be rezoned is appropriate for a planned development under the comprehensive plan; and (iii) the relation of the proposed planned development to major roads, utilities, public facilities and services.
 2. *Additional factors to be considered when acting on applications to amend existing planned development district.* In addition to the other factors relevant to the consideration of a zoning map amendment, including those in subsections [\(B\)](#) and [\(B\)\(1\)](#), the Commission and the Board of Supervisors will consider the following factors when reviewing an application to amend an existing planned development district: (i) whether the proposed amendment reduces, maintains or enhances the elements of a planned development set forth in section [8.3](#); and (ii) the extent to which the proposed amendment impacts the other parcels within the planned development district.
- C. *Effect of approval.* The Board of Supervisors' approval of a zoning map amendment constitutes acceptance of any proffers and (for any application to establish or amend a planned development district) approval of the application plan, all standards of development, the code of development, and any waivers or modifications approved by special exception as provided under section [8.2](#). The district designation, any accepted proffers, an approved application plan, standards of development, a code of development, and any special exception(s) are all included among the zoning regulations applicable to the property subject to a zoning map amendment.

(§ 33.6, Ord. 12-18(7), 12-5-12, effective 4-1-13; § 33.9, 12-10-80)
State law reference – Va. Code §§ 15.2-2284, 15.2-2285, 15.2-2286(A)(7).

33.7 OWNER-INITIATED ZONING MAP AMENDMENTS; AUTHORITY TO ACCEPT PROFFERS

The Board of Supervisors may accept proffers pursuant to Virginia Code §§ [15.2-2303](#) and [15.2-2303.4](#) in conjunction with zoning map amendments, subject to the following provisions:

- A. *Purpose.* Proffers are reasonable conditions proposed by the applicant governing the use of parcels being rezoned. The conditions are in addition to the regulations in this chapter that apply to the district.
- B. *Form.* Proffers must be in writing and in a form approved by the County Attorney. The Agent may provide a proffer statement form.

- C. *Proffers addressing impacts from new residential development uses.* For zoning map amendments that propose new residential development or new residential uses as defined in and subject to Virginia Code § 15.2-2303.4 , any proposed proffers addressing the impacts resulting from the new residential development or new residential uses must comply with Virginia Code § 15.2-2303.4 .
- D. *Time to submit.* The applicant must submit proffers by the following deadlines:
1. *Before the Commission's public hearing.* Proposed proffers, regardless of whether they are signed by the owners of all parcels subject to the zoning map amendment, must be submitted to the Department of Community Development at least 14 days before the Commission's public hearing on the zoning map amendment.
 2. *Before the Board of Supervisors' public hearing.* Proposed proffers, signed by the owners of all parcels subject to the zoning map amendment, must be submitted to the Department of Community Development before the Board's public hearing on the zoning map amendment. The Agent may establish written guidelines that require signed proffers to be submitted a reasonable time prior to the public hearing to allow for review by County officers and employees and by the public.
 3. *Amendments to proposed proffers after the public hearing has begun.* The Board may accept, in its sole discretion, amended proffers after a public hearing on the zoning map amendment has begun if the Board concludes that the amended proffers do not materially affect the overall proposal. If amended proffers are submitted after the public hearing is closed, the Board may accept, in its sole discretion, the amended proffers after holding another public hearing.
- E. *Effect of proffers once accepted.* The Board of Supervisors' adoption of a zoning map amendment constitutes (i) acceptance of the proffers and (ii) for any application to establish or amend a planned development district, approval of the application plan, all standards of development, and the code of development. In addition:
1. *Become part of zoning regulations.* The district designation, the accepted proffers, the approved application plan, the standards of development, and the code of development are all among the zoning regulations applicable to the property subject to a zoning map amendment.
 2. *Effect of proffers once accepted.* Once accepted by the Board in conjunction with an adopted zoning map amendment, the proffers continue in effect until a subsequent zoning map amendment (other than a comprehensive implementation of a new or substantially revised zoning ordinance) changes the zoning of the property subject to the proffers.
- F. *Subsequent amendments to proffers.* Once accepted by the Board of Supervisors in conjunction with an approved zoning map amendment, proffers may be amended by an owner-initiated zoning map amendment

(§ 33.7, Ord. 12-18(7), 12-5-12, effective 4-1-13 (§ 33.3, 12-10-80; 4-4-90; Ord. 07-18(1), 7-11-07) (§ 33.3.1, 12-10-80; 4-4-90; Ord. 16-18(4), 4-6-16)

State law reference – Va. Code §§ 15.2-2296, 15.2-2302, 15.2-2303.

33.8 SPECIAL USE PERMITS; RELEVANT FACTORS TO BE CONSIDERED; CONDITIONS; REVOCATION

Special use permits are subject to the following provisions:

- A. *Factors to be considered when acting.* The Commission and the Board of Supervisors will consider the following factors when reviewing and acting on an application for a special use permit:
1. *No substantial detriment.* Whether the proposed special use will be a substantial detriment to adjacent parcels.
 2. *Character of the nearby area is unchanged.* Whether the character of the adjacent parcels and the nearby area will be changed by the proposed special use.
 3. *Harmony.* Whether the proposed special use will be in harmony with the purpose and intent of this chapter, with the uses permitted by right in the district, with the applicable provisions of [section 5](#), and with the public health, safety, and general welfare (including equity).
 4. *Consistency with the Comprehensive Plan.* Whether the proposed special use will be consistent with the Comprehensive Plan.
- B. *Conditions.* The Commission may recommend, and the Board of Supervisors may impose, conditions upon the special use to address impacts arising from the use, in order to protect the public health, safety or welfare. The conditions may pertain (but are not limited) to:
1. The prevention or minimization of smoke, dust, noise, traffic congestion, flood and/or other hazardous, deleterious or otherwise undesirable substances or conditions.
 2. The provision of adequate police and fire protection.
 3. The provision of adequate improvements pertaining to transportation, water, sewage, drainage, recreation, landscaping and/or screening or buffering.
 4. The establishment of special requirements relating to building setbacks, front, side and rear yards, off-street parking, ingress and egress, hours of operation, outside storage of materials, duration and intensity of use, building heights, and other particular aspects of occupancy or use.
 5. The period by which the use must begin or the construction of any structure required for the use must commence.
 6. The materials and methods of construction or specific design features, provided such a condition for residential uses complies with subsection [\(C\)](#).
- C. *Conditions related to residential uses.* Any conditions imposed in connection with residential special use permits should: (i) be consistent with the objective of providing affordable housing if the applicant proposes affordable housing; and (ii) consider the impact

of the conditions on the affordability of housing where the conditions specify the materials and methods of construction or specific design features.

- D. *Conditions deemed essential and non-severable.* Except as the Board of Supervisors may specify in a particular case, any condition imposed on a special use will be deemed essential and non-severable from the permit itself, and the invalidation of any condition will invalidate the entire special use permit.
- E. *Revocation for non-compliance with conditions.* A special use permit may be revoked by the Board of Supervisors after a public hearing if the Board determines that there has not been compliance with the conditions of the permit. Notice of the public hearing will be provided pursuant to section [33.10](#).

(§ 33.8, Ord. 12-18(7), 12-5-12, effective 4-1-13; § 31.6.1, § 31.2.4, 12-10-80; Ord. 09-18(3), 7-1-09)

State law reference – Va. Code §§ 15.2-2286(A)(3), 15.2-2309(7).

33.9 SPECIAL EXCEPTIONS; RELEVANT FACTORS TO BE CONSIDERED; CONDITIONS; REVOCATION

Special exceptions are subject to the following provisions:

- A. *Factors to be considered when acting.* In acting upon a special exception, the Board of Supervisors will consider the factors, standards, criteria, and findings, however denominated, in the applicable sections of this chapter. The Board is not required to make specific findings in support of its decision.
- B. *Conditions.* In approving a special exception, the Board of Supervisors may impose reasonable conditions to address any possible impacts of the special exception. Except as the Board may specify in a particular case, any condition imposed on a special exception will be deemed essential and non-severable from the special exception itself, and the invalidation of any condition will invalidate the entire special exception.
- C. The Board of Supervisors may revoke a special exception if the Board determines, after a public hearing, that the permittee or any successor has not complied with any conditions of the special exception. Notice of the public hearing will be provided pursuant to section [33.10](#).

(§ 33.9, Ord. 12-18(7), 12-5-12, effective 4-1-13; § 31.8, Ord. 12-18(1), 2-8-12)

State law reference – Va. Code § 15.2-2286(A)(3).

33.10 PUBLIC NOTICE

Notice of public hearings. The following notice of public hearings will be provided:

- A. For zoning text amendments, the following notice will be provided:
 - 1. The Department of Community Development will provide notice of public hearings before the Commission and the Board pursuant to Virginia Code § [15.2-2204](#).

2. *Notice of public hearings, imposing or increasing fees.* The Department of Community Development will provide notice of public hearings before the Commission and the Board of Supervisors pursuant to Virginia Code §§ [15.2-107](#) and [15.2-2204](#) if the proposed zoning text amendment would impose or increase fees under this chapter.
- B. For zoning map amendments and special use permits, the following notice will be provided:
1. *Published and mailed notice.* Notice of the public hearing before the Commission and the Board of Supervisors on an application will be provided in all cases as required by Virginia Code § [15.2-2204](#); for zoning map amendments, as also provided by Virginia Code § [15.2-2285\(C\)](#). For zoning map amendments seeking to amend an existing planned development district, written notice also will be provided to the owner of each parcel within the planned development district, and the substance of that notice will be as required by Virginia Code § [15.2-2204\(B\)](#), paragraph 1, regardless of the number of parcels affected.
 2. *Posted notice.* Notice of the public hearing before the Commission and the Board of Supervisors on each application will be posted, subject to the following provisions:
 - a. *When sign will be posted.* The sign will be posted at least twenty-one (21) days before the Commission's public hearing on the application and will remain posted until either the Board of Supervisors has acted on the application or the application has been withdrawn.
 - b. *Where sign to be located.* The sign is to be erected within ten (10) feet of each boundary line of the parcel(s) that abuts a street and should be clearly visible from the street. If more than one street abuts the parcel(s), then either: (i) a sign will be erected in the same manner as above for each abutting street; or (ii) if the area of the parcel(s) to be used if the application was granted is confined to a particular portion of the parcel(s), a sign will be erected in the same manner as above for the abutting street that is in closest proximity to, or would be impacted by, the proposed use. A sign need not be posted along Interstate 64 or along any abutting street if the sign would not be visible from that street. If no street abuts the parcel(s), then signs are to be erected in the same manner as above on at least two boundaries of the parcel(s) abutting land not owned by the applicant in locations that are most conspicuous to the public. The filing of the application is deemed to grant consent to the Zoning Administrator to enter the parcel(s) to erect the signs.
 - c. *Content of sign.* Each sign will state that the parcel(s) is subject to a public hearing and explain how to obtain additional information about the public hearing.
 - d. *Maintaining the sign.* The applicant must diligently protect each sign from vandalism and theft, maintain each sign in an erect position in its posted location, and ensure that each sign remains legible. The failure of an applicant to comply with these responsibilities may be cause for the Commission or the Board of Supervisors to defer action on an application until there is reasonable compliance with this subsection.

- e. *Ownership of sign*; violation for removing or tampering with sign. Each sign is the property of the County. It is unlawful for any person to remove or tamper with any sign, provided that the applicant, the County or the County's employees or authorized agents may perform required maintenance.
 - f. *Effect of failure to comply*. If any notice sign is not posted as specified in subsection [\(B\)\(2\)](#):
 - 1. *Prior to action by Board*. The Board of Supervisors may defer action on an application if it finds that the failure to comply with subsection [\(B\)\(2\)](#) materially deprived the public of reasonable notice of the public hearing.
 - 2. *Action is not invalid*. Neither the Commission's recommendation nor the Board's approval of a zoning map amendment or special use permit is invalid solely because of a failure to post notice as specified in subsection [\(B\)\(2\)](#).
- C. Notice for revocation of a special use permit or special exception will be provided pursuant to Virginia Code § [15.2-2204](#), provided that written notice to the owners, their agents, or the occupants of abutting parcels and parcels immediately across the street from the parcel(s) subject to a special use permit may be given by first-class mail rather than by registered or certified mail.
- D. The following notice of special exceptions will be provided:
- 1. When public hearings are required under section [33.5\(E\)\(1\)](#), the Department of Community Development will provide notice of those public hearings pursuant to Virginia Code § [15.2-2204](#).
 - 2. For all other public hearings, public notice will be given as provided in the applicable sections of this chapter.
- E. A party's actual notice of, or active participation in, proceedings requiring written notice waives the right of that party to challenge the validity of the proceeding due to an alleged failure to receive the required written notice.

33.11 DEFFERING ACTION AND WITHDRAWING AN APPLICATION.

After submitting an application but before action by the Board of Supervisors, an applicant for a zoning map amendment, special use permit, or special exception may request a deferral or withdraw an application, subject to the following provisions.

- A. *To whom the request is to be sent*.
- 1. The written request must be sent to the Agent. If the application is pending before the Board of Supervisors at the time the request is received, the Agent will immediately inform the Clerk of the Board of the request.
 - 2. Notwithstanding subsection [\(A\)\(1\)](#), the applicant may make a request for deferral directly to the Planning Commission during a public hearing on the application.

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- B. *When the request must be received.* The request must be received by the Agent or the Clerk before action by the Board of Supervisors
- C. *Effect of timely receipt of request to defer or withdraw.* The County is not obligated to accept a request for deferral. If the County accepts a request for deferral: (i) the application will not be further processed or reviewed by County staff, (ii) neither the Commission nor the Board will act on the application, and (iii) all time periods for review will be tolled. The Agent will determine whether to accept a request for deferral submitted pursuant to subsection [\(A\)\(1\)](#). The Planning Commission will determine whether to accept a request for deferral submitted pursuant to subsection [\(A\)\(2\)](#).
- D. *Limitations on deferral.* No application may be in a state of deferral after 32 months from when the application was deemed complete under section [33.4\(O\)](#), provided that the Agent may extend the time for action beyond the end of the deferral period if there are extenuating circumstances that include (but are not limited to): inclement weather, civil emergencies, or errors in providing public notice as required by State law.
- E. *Reactivating a deferred application.* An applicant may reactivate an application by submitting new information or by requesting that the application be scheduled for public review.
- F. *Effect of reactivating an application.*
1. The Agent may determine the appropriate procedure to review a reactivated application. The procedure to review may not exceed the procedure for a new application and may require a new submittal fee.
 2. All time periods for action in section [33.4\(O\)](#) will be calculated from the reactivation of an application and not from its original submittal.
- G. *Resubmitting a similar withdrawn application within one year prohibited.* An applicant may not submit an application that is substantially the same as a withdrawn application for the same parcel(s) within one year of the withdrawal without authorization by the Board of Supervisors.
- H. *When an application is deemed withdrawn.* An application is deemed voluntarily withdrawn if a request for deferral is accepted pursuant to this section and the applicant fails to reactivate the application either:
1. within six months of the request for deferral, or
 2. within 32 months from the time the application was determined or deemed complete.