

ORDINANCE NO. 21-18( )

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE I, GENERAL PROVISIONS, AND ARTICLE IV, PROCEDURE, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 18, Zoning, Article I, General Provisions, and Article IV, Procedure, are hereby amended and reordained as follows:

**By Amending:**

Sec. 3.1 Definitions

**By Repealing:**

- Sec. 33.1 Introduction.
- Sec. 33.2 Initiating a zoning text amendment.
- Sec. 33.3 Work sessions, stakeholder meetings, community meetings, and other public engagement.
- Sec. 33.4 Public hearings; notice.
- Sec. 33.5 Recommendation by the Planning Commission.
- Sec. 33.6 Action by the Board of Supervisors.
- Sec. 33.7 Introduction.
- Sec. 33.8 Initiating a zoning map amendment.
- Sec. 33.9 Work sessions, stakeholder meetings, community meetings, and other public engagement.
- Sec. 33.10 Public hearings; notice.
- Sec. 33.11 Recommendation by the Planning Commission.
- Sec. 33.12 Action by the Board of Supervisors.
- Sec. 33.13 Introduction.
- Sec. 33.14 Pre-application meeting.
- Sec. 33.15 Application for a zoning map amendment.
- Sec. 33.16 Information submitted with application; all applications.
- Sec. 33.17 Information submitted with application; conventional districts.
- Sec. 33.18 Information submitted with application; planned development districts, including neighborhood model districts.
- Sec. 33.19 Information submitted with applications; neighborhood model districts.
- Sec. 33.20 Filing the application; determining completeness of the application; paying fees; resubmitting an application originally determined to be incomplete.
- Sec. 33.21 Studies identifying potential impacts of zoning map amendment.
- Sec. 33.22 Proffers.
- Sec. 33.23 Work sessions.
- Sec. 33.24 Community meetings.
- Sec. 33.25 Public hearings; notice.
- Sec. 33.26 Recommendation by the Planning Commission.
- Sec. 33.27 Action by the Board of Supervisors.
- Sec. 33.28 Effect of approval of zoning map amendment; effect of proffers once accepted.
- Sec. 33.29 Resubmitting a similar denied application within one year is prohibited.
- Sec. 33.30 Introduction.
- Sec. 33.31 Pre-application meeting.
- Sec. 33.32 Application for a special use permit.
- Sec. 33.33 Information the Director of Planning may require to be submitted with application.
- Sec. 33.34 Filing the application; determining completeness of the application; paying fees; resubmitting an application originally determined to be incomplete.
- Sec. 33.35 Studies identifying potential impacts of special use permit.
- Sec. 33.36 Work sessions.
- Sec. 33.37 Community meetings.
- Sec. 33.38 Public hearings; notice.
- Sec. 33.39 Recommendation by the Planning Commission.

- Sec. 33.40 Action by the Board of Supervisors.
- Sec. 33.41 Revoking a special use permit for noncompliance with conditions.
- Sec. 33.42 Resubmitting a similar denied application within one year is prohibited.
- Sec. 33.43 Introduction.
- Sec. 33.44 Application for a special exception.
- Sec. 33.45 Filing the application; determining completeness of the application; paying fees; resubmitting an application originally determined to be incomplete.
- Sec. 33.46 Studies identifying potential impacts of special exception.
- Sec. 33.47 Public hearings; when required; notice.
- Sec. 33.48 Recommendation by the Planning Commission when required.
- Sec. 33.49 Action by the Board of Supervisors.
- Sec. 33.50 Revoking a special exception for noncompliance with conditions.
- Sec. 33.51 Resubmitting a similar denied application within one year is prohibited.
- Sec. 33.52 Deferring action.
- Sec. 33.52 Requesting action after deferral.
- Sec. 33.54 Withdrawing an application.

**By Adding:**

- Sec. 33.1 Purpose and Intent.
- Sec. 33.2 Uniform Requirements for County Initiation of Zoning Text Amendments and Zoning Map Amendments.
- Sec. 33.3 Uniform Procedures for Zoning Text Amendments and County Initiated Zoning Map Amendments.
- Sec. 33.4 Uniform Requirements for Owner Initiation of Zoning Map Amendments and Special Use Permits.
- Sec. 33.5 Uniform Procedures for Special Exceptions.
- Sec. 33.6 Zoning Text Amendments and Zoning Map Amendments; Relevant Factors to be Considered; Effect of Approval.
- Sec. 33.7 Owner-Initiated Zoning Map Amendments; Authority to Accept Proffers.
- Sec. 33.8 Special Use Permits; Relevant Factors to be Considered; Conditions; Revocation.
- Sec. 33.9 Special Exceptions; Relevant Factors to be Considered; Conditions; Revocation
- Sec. 33.10 Public Notice.
- Sec. 33.11 Deferring Action and Withdrawing an Application.

**Chapter 18. Zoning**

**Article I. General Provisions**

**Sec. 3.1 Definitions.**

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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.

\* \* \* \* \*

[(§ 3.1: 20-3.1, 12-10-80, 7-1-81, 12-16-81, 2-10-82, 6-2-82, 1-1-83, 7-6-83, 11-7-84, 7-17-85, 3-5-86, 1-1-87, 6-10-87, 12-2-87, 7-20-88, 12-7-88, 11-1-89, 6-10-92, 7-8-92, 9-15-93, 8-10-94, 10-11-95, 11-15-95, 10-9-96, 12-10-97; § 18-3.1, Ord. 98-A(1), 8-5-98; Ord. 01-18(6), 10-3-01; Ord. 01-18(9) , 10-17-01; Ord. 02-18(2) , 2-6-02; Ord. 02-18(5) , 7-3-02; Ord. 02-18(7) , 10-9-02; Ord. 03-18(1) , 2-5-03; Ord. 03-18(2) , 3-19-03; Ord. 04-18(2) , 10-13-04; 05-18(2), 2-2-05; Ord. 05-18(7) , 6-8-05; Ord. 05-18(8) , 7-13-05; Ord. 06-18(2) , 12-13-06; Ord. 07-18(1) , 7-11-07; Ord. 07-18(2) , 10-3-07; Ord. 08-18(3) , 6-11-08;

Ord. 08-18(4) , 6-11-08; Ord. 08-18(6) , 11-12-08; Ord. 08-18(7) , 11-12-08; Ord. 09-18(3) , 7-1-09; Ord. 09-18(5) , 7-1-09; Ord. 09-18(8) , 8-5-09; Ord. 09-18(9) , 10-14-09; Ord. 09-18(10) , 12-2-09; Ord. 09-18(11) , 12-10-09; Ord. 10-18(3) , 5-5-10; Ord. 10-18(4) , 5-5-10; Ord. 10-18(5) , 5-12-10; Ord. 11-18(1) , 1-12-11; Ord. 11-18(5) , 6-1-11; Ord. 11-18(6) , 6-1-11; Ord. 12-18(3) , 6-6-12; Ord. 12-18(4) , 7-11-12; Ord. 12-18(6) , 10-3-12, effective 1-1-13; Ord. 12-18(7) , 12-5-12, effective 4-1-13; Ord. 13-18(1) , 4-3-13; Ord. 13-18(2) , 4-3-13; Ord. 13-18(3) , 5-8-13; Ord. 13-18(5) , 9-11-13; Ord. 13-18(6) , 11-13-13, effective 1-1-14; Ord. 13-18(7) , 12-4-13, effective 1-1-14; Ord. 14-18(2) , 3-5-14; Ord. 14-18(4) , 11-12-14; Ord. 15-18(1) , 2-11-15; Ord. 15-18(2) , 4-8-15; Ord. 15-18(4) , 6-3-15; Ord. 15-18(5) , 7-8-15; Ord. 15-18(10) , 12-9-15; Ord. 16-18(1) , 3-2-16; Ord. 16-18(7) , 12-14-16; Ord. 17-18(1) , 1-18-17; Ord. 17-18(2) , 6-14-17; Ord. 17-18(4) , 8-9-17; Ord. 17-18(5) , 10-11-17; Ord. 18-18(1) , 1-10-18; Ord. 18-18(4) , 10-3-18; Ord. 19-18(3) , 6-5-19) (§ 4.15.03: 12-10-80; 7-8-92, § 4.15.03, Ord. 01-18(3) , 5-9-01; Ord. 05-18(4) , 3-16-05; Ord. 10-18(1) , 1-13-10; Ord. 10-18(3) , 5-5-10; Ord. 10-18(5) , 5-12-10; Ord. 11-18(1) , 1-12-11; Ord. 12-18(2) , 3-14-12; Ord. 14-18(3) , 6-4-14; Ord. 15-18(3) , 5-6-15; § 4.15.3; Ord. 15-18(11) , 12-9-15; Ord. 17-18(4) , 8-9-17) (§ 4.17.3: Ord. 98-18(1) , 8-12-98; Ord. 01-18(8) , 10-17-01; Ord. 17-18(5) , 10-11-17) (§ 4.18.2: Ord. 00-18(3) , 6-14-00; Ord. 13-18(4) , 9-4-13) (§ 10.3.3.1: § 20-10.3.3.1, 11-8-89; § 18-10.3.3.1, Ord. 98-A(1) , 8-5-98; Ord. 01-18(6) , 10-3-01) (§ 30.2.4: § 30.2.4, 12-10-80) (§ 30.3.5: § 30.3.02.1 (part), 12-10-80; 6-10-87; Ord. 05-18(1) , 1-5-05, effective 2-5-05; § 30.3.5; Ord. 14-18(1) , 3-5-14; Ord. 17-18(4) , 8-9-17); § 3.1, Ord. 19-18(3) , 6-5-19; Ord. 19-18(6) , 8-7-19; Ord. 20-18(2) , 9-2-20; Ord. 20-18(3) , 9-16-20; Ord. 21-18(3) , 6-2-21]

## Article IV. Procedure

### Sec. 33 Zoning Text Amendments, Zoning Map Amendments, Special Use Permits, and Special Exceptions

#### Division 1. Zoning Text Amendments

##### Sec. 33.1 Introduction.

~~This division establishes the procedures and requirements for amending the text of this chapter by adopting an ordinance (as used in this division, a “zoning text amendment”). The Board of Supervisors may adopt a zoning text amendment whenever the public necessity, convenience, general welfare, or good zoning practices requires. The Commission shall consider these bases when making a recommendation on a zoning text amendment.~~

~~State law reference Va. Code §§ 15.2-2280, 15.2-2285, 15.2-2286.~~

~~[§ 33.1: (§ 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)+(§ 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)))+(§ 33.6: Ord. 12-18(7), 12-5-12, effective 4-1-13; § 33.9, 12-10-80); § 33.1, Ord. 18-18(3), 9-5-18]~~

##### Sec. 33.2 Initiating a zoning text amendment.

~~A zoning text amendment may be initiated as follows:~~

~~A. *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.~~

~~B. *By the Commission.* The Commission may initiate a zoning text amendment by adopting either a motion or a resolution.~~

~~State law reference Va. Code §§ 15.2-2285, 15.2-2286.~~

~~[§ 33.2: (§ 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)); § 33.2, Ord. 18-18(3), 9-5-18]~~

**Sec. 33.3 Work sessions, stakeholder meetings, community meetings, and other public engagement.**

The Director of Planning may schedule work sessions before the Board of Supervisors, the Commission, and the Architectural Review Board, if applicable. The Director is also authorized to hold stakeholder meetings, community meetings, and other forms of public engagement, as the Director determines to be appropriate or as directed by the Board of Supervisors or the Commission, to consider any proposed zoning text amendment.

~~State law reference~~ Va. Code §§ 15.2-2285, 15.2-2286.

~~[§ 33.3: (§ 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)); § 33.3, Ord. 18-18(3), 9-5-18]~~

**Sec. 33.4 Public hearings; notice.**

Public hearings on a proposed zoning text amendment are required as follows:

- ~~A. *When public hearings are required.* The Commission shall hold at least one public hearing before it makes its recommendation to the Board of Supervisors. After the Board receives the recommendation from the Commission, it shall hold at least one public hearing before acting.~~
- ~~B. *Notice of public hearings, generally.* The Department of Community Development shall provide notice of the public hearings before the Commission and the Board pursuant to Virginia Code § 15.2-2204.~~
- ~~C. *Notice of public hearings, imposing or increasing fees.* The Department of Community Development shall provide notice of the 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.~~

~~State law reference~~ Va. Code §§ 15.2-107, 15.2-2204, 15.2-2285, 15.2-2286.

~~[§ 33.4: (§ 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)); § 33.4, Ord. 18-18(3), 9-5-18]~~

**Sec. 33.5 Recommendation by the Planning Commission.**

The Commission shall act on a proposed zoning text amendment as follows:

- ~~A. *Recommendation.* The Commission shall either recommend approval of the zoning text amendment as proposed, approval of the zoning text amendment with recommended changes to the text, or disapproval.~~
- ~~B. *Factors to be considered.* In making its recommendation, the Commission shall consider the same factors considered by the Board of Supervisors pursuant to Section 33.6.~~
- ~~C. *Time for recommendation.* The Commission shall make its recommendation on the proposed zoning text amendment within 90 days after the first Commission meeting at which it is considered. The Commission's failure to make a recommendation within the 90-day period is deemed to be a~~

recommendation of approval, unless the Commission extends the 90-day period. If the Commission extends the 90-day period, the Board may at any time direct the Commission to make a recommendation before the deadline established by the Board.

~~State law reference~~ Va. Code §§ 15.2-2280, 15.2-2284, 15.2-2285.

~~[\§ 33.5: (§ 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)] + (§ 33.6: Ord. 12-18(7), 12-5-12, effective 4-1-13; § 33.9, 12-10-80); § 33.5, Ord. 18-18(3), 9-5-18]~~

### **Sec. 33.6 Action by the Board of Supervisors.**

The Board of Supervisors shall act on a proposed zoning text amendment as follows:

A. ~~Action.~~ The Board may either adopt the zoning text amendment, defer action to allow further amendments to the text to be made, not adopt the zoning text amendment, or refer the matter back to the Commission for further consideration and recommendation within the time for an action provided in subsection (C).

B. ~~Factors to be considered.~~ In acting on a zoning text amendment, the Board shall reasonably consider the following factors: (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 community's transportation requirements; (vii) the requirements for airports, housing, schools, parks, playgrounds, recreation areas, and other public services; (viii) the conservation of natural resources; (ix) preserving flood plains; (x) protecting life and property from impounding structure failures; (xi) preserving agricultural and forestal land; (xii) conserving properties and their values; and (xiii) encouraging the most appropriate use of land throughout the County. The Board's failure to expressly consider all of these factors does not invalidate its action.

C. ~~Time for action.~~ The Board shall act on a zoning text amendment within a reasonable period as may be necessary not to exceed 12 months after the first meeting at which it was considered by the Commission, unless the Board extends the 12-month period.

~~State law reference~~ Va. Code §§ 15.2-2280, 15.2-2284, 15.2-2285, 15.2-2286.

~~[\§ 33.6: (§ 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)] + (§ 33.6: Ord. 12-18(7), 12-5-12, effective 4-1-13; § 33.9, 12-10-80); § 33.6, Ord. 18-18(3), 9-5-18]~~

## **Division 2. Zoning Map Amendments Initiated by the County**

### **Sec. 33.7 Introduction.**

This division establishes the procedures and requirements for amending the zoning map when the proposed amendment is initiated by the County (as used in this division, a "zoning map amendment"). The Board of Supervisors may adopt a zoning map amendment whenever the public necessity, convenience, general welfare, or good zoning practice requires.

~~State law reference~~ Va. Code §§ 15.2-2280, 15.2-2284, 15.2-2285, 15.2-2286.

~~[§ 33.7: (§ 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) + (§ 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)) + (§ 33.6: Ord. 12-18(7), 12-5-12, effective 4-1-13; § 33.9, 12-10-80); § 33.7, Ord. 18-18(3), 9-5-18]~~

**Sec. 33.8 Initiating a zoning map amendment.**

A zoning map amendment may be initiated by the County as follows:

- ~~A. *By the Board of Supervisors.* The Board of Supervisors may initiate a zoning map amendment by adopting a resolution.~~
- ~~B. *By the Planning Commission.* The Planning Commission may initiate a zoning map amendment by adopting either a motion or a resolution.~~

~~State law reference Va. Code §§ 15.2-2285, 15.2-2286.~~

~~[§ 33.8: (§ 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)); § 33.8, Ord. 18-18(3), 9-5-18]~~

**Sec. 33.9 Work sessions, stakeholder meetings, community meetings, and other public engagement.**

~~The Director of Planning may schedule work sessions before the Board of Supervisors, the Commission, and the Architectural Review Board, if applicable. The Director is also authorized to hold stakeholder meetings, community meetings, and other forms of public engagement, as the Director determines to be appropriate or as directed by the Board of Supervisors or the Commission, to consider any proposed zoning map amendment initiated by the County.~~

~~State law reference Va. Code §§ 15.2-2285, 15.2-2286.~~

~~[§ 33.9: (§ 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)); § 33.9, Ord. 18-18(3), 9-5-18]~~

**Sec. 33.10 Public hearings; notice.**

Public hearings on a proposed zoning map amendment are required as follows:

- ~~A. *When public hearings are required.* The Commission shall hold at least one public hearing before it makes its recommendation to the Board of Supervisors. After the Board receives the recommendation from the Commission, it shall hold at least one public hearing before acting.~~
- ~~B. *Notice of public hearings.* Notice of the public hearings shall be provided as follows:
  - ~~1. *Published and mailed notice.* The Department of Community Development shall provide notice of the public hearings before the Commission and the Board as required by Virginia Code §§ 15.2-2204 and 15.2-2285(C).~~
  - ~~2. *Posted notice.* The Department of Community Development shall post notice of the public hearings by posting one or more signs as follows:~~~~

- a. ~~When a sign must be posted.~~ The sign shall be posted at least 21 days before the Commission's public hearing and shall remain posted until the Board has acted on the zoning map amendment.
- b. ~~Where a sign is to be located.~~ The sign shall be erected within 10 feet of each boundary line of the parcel(s) that is the subject of the zoning map amendment abutting a street and shall be placed so that it is clearly visible from the street. If more than one street abuts the parcel(s), then either: (i) a sign shall 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 zoning map amendment is approved is confined to a particular portion of the parcel(s), a sign 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 shall be erected in the same manner as above on at least two boundaries of the parcel(s) abutting land that is not subject to the zoning map amendment in locations that are most conspicuous to the public. Before posting a sign on a parcel, the Zoning Administrator shall obtain the consent of the owner to do so if the parcel is not owned by the County.
- e. ~~Content of a sign.~~ Each sign shall 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 County shall endeavor to 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.
- e. ~~Ownership of a sign; violation for removing or tampering with a sign.~~ Each sign is the property of the County. It is unlawful for any person to remove or tamper with any sign, except the County or its employees or authorized agents performing maintenance required by this subsection.
- f. ~~Effect of failure to comply.~~ If the Department of Community Development fails to post any sign required by this subsection (B)(2):
- ~~Prior to action by the Board.~~ The Board may defer acting on a zoning text amendment if it finds that the failure to comply with this subsection materially deprived the public of reasonable notice of the public hearing.
  - ~~Action is not invalid.~~ Neither the Commission's recommendation nor the Board's approval of a zoning map amendment is invalid solely because of the failure to post notice as required by this subsection.

~~State law reference~~ Va. Code §§ 15.2-2204, 15.2-2285, 15.2-2286.

~~[§ 33.10: (§ 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)) + (§ 33.4: § 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); § 33.10, Ord. 18-18(3), 9-5-18]~~

### **Sec. 33.11 Recommendation by the Planning Commission.**

The Commission shall act on a proposed zoning map amendment as follows:

- A. ~~Recommendation.~~ The Commission shall either recommend approval of the zoning map amendment as proposed, approval of the zoning map amendment with recommended changes, or denial of the application.
- B. ~~Factors to be considered.~~ In making its recommendation, the Commission shall consider the same factors considered by the Board of Supervisors pursuant to section 33.12.
- C. ~~Time for recommendation.~~ The Commission shall make its recommendation on the proposed zoning map amendment within 90 days after the first Commission meeting at which it is considered. The failure of the Commission to make a recommendation on the matter within the 90-day period shall be deemed to be a recommendation of approval, unless the Commission extends the 90-day period.

~~State law reference~~ Va. Code §§ 15.2-2280, 15.2-2284, 15.2-2285, 15.2-2286.

~~[§ 33.11: (§ 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)))+(§ 33.6: Ord. 12-18(7), 12-5-12, effective 4-1-13; § 33.9, 12-10-80); § 33.11, Ord. 18-18(3), 9-5-18]~~

**Sec. 33.12 Action by the Board of Supervisors.**

The Board of Supervisors shall act on a proposed zoning map amendment as follows:

- A. ~~Action.~~ The Board may either adopt the zoning map amendment, deny the application for a zoning map amendment, or refer the matter back to the Commission for further consideration and recommendation within the time for an action provided in subsection (C). 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).
- B. ~~Factors to be considered.~~ In acting on a zoning map amendment, the Board shall reasonably consider the following factors: (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 community's transportation requirements; (vii) the requirements for airports, housing, schools, parks, playgrounds, recreation areas, and other public services; (viii) the conservation of natural resources; (ix) preserving flood plains; (x) protecting life and property from impounding structure failures; (xi) preserving agricultural and forestal land; (xii) conserving properties and their values; and (xiii) encouraging the most appropriate use of land throughout the County. The Board's failure to expressly consider all of these factors does not invalidate its action.
- C. ~~Time for action.~~ The Board shall act on a zoning text amendment within a reasonable period as may be necessary, not to exceed 12 months after the first meeting at which it was considered by the Commission, unless the Board extends the 12-month period.

~~State law reference~~ Va. Code §§ 15.2-2280, 15.2-2284, 15.2-2285, 15.2-2286.

~~[§ 33.12: (§ 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)))+(§ 33.4: § 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)+(§ 33.6: Ord. 12-18(7), 12-5-12, effective 4-1-13; § 33.9, 12-10-80); § 33.12, Ord. 18-18(3), 9-5-18]~~

### **Division 3. Zoning Map Amendments Initiated by an Owner**

#### **Sec. 33.13 Introduction.**

This division establishes the procedures and requirements for amending the zoning map when the amendment is initiated by an owner or other persons authorized by Section 33.15 (as used in this division, a “zoning map amendment”). The Board of Supervisors may adopt a zoning map amendment whenever the public necessity, convenience, general welfare, or good zoning practice requires.

~~State law reference~~ Va. Code §§ 15.2-2280, 15.2-2284, 15.2-2285 15.2-2286.

~~[§ 33.13: (§ 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)+(§ 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)+(§ 33.6: Ord. 12-18(7), 12-5-12, effective 4-1-13; § 33.9, 12-10-80); § 33.13, Ord. 18-18(3), 9-5-18]~~

#### **Sec. 33.14 Pre-application meeting.**

Any prospective applicant for a zoning map amendment shall request and hold a meeting with the Department of Community Development before filing an application to the County. This meeting is referred to as the “pre-application meeting.”

- ~~A. *Submitting information.* The applicant shall complete and submit information on County provided forms before or during the pre-application meeting.~~
- ~~B. *Purposes for a pre-application meeting.* The purposes for a pre-application meeting are to: (i) provide the applicant and the County a common understanding of the proposed project; (ii) inform the applicant about the proposed project’s consistency with the Comprehensive Plan, other relevant policies, and County regulations; (iii) broadly identify the planning, zoning, and other issues raised by the application that need to be addressed by the applicant; (iv) inform the applicant about the applicable procedure; and (v) allow the Director of Planning to identify the information the applicant must submit with the application pursuant to Sections 33.16 through 33.19.~~
- ~~C. *When a pre-application meeting is not required.* The Director may exercise discretion and decide that a pre-application meeting is not required upon considering the following: (i) whether the proposed use, the proposed density, the proposed scale, potential impacts, and other relevant considerations applying sound zoning principles do not warrant a pre-application meeting; (ii) whether the information that may be required pursuant to Sections 33.16 through 33.19 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; and (iv) whether the application raises any complex issues that create the need for the meeting.~~

~~State law reference~~ Va. Code §§ 15.2-2285, 15.2-2286.

~~[§ 33.14: (§ 33.4: § 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); § 33.14, Ord. 18-18(3), 9-5-18]~~

**Sec. 33.15 ~~Application for a zoning map amendment.~~**

Each application for a zoning map amendment is subject to the following:

~~A. *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 (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 described below may be waived if the proposed amendment solely pertains to amending proffers that do not affect conditions of use or density and, following consultation with the Director of Planning, 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; and, 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 in Sections 33.14, 33.22, and 33.23.~~

~~c. *Waiving application requirements.* The Board may waive any supplemental information which may otherwise be required to be submitted with an application under Sections 33.16 through 33.19, 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.~~

~~B. *Who must sign an application.* The application shall be signed by the owner of each parcel that is the subject of the proposed zoning map amendment. In addition:~~

~~1. *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.~~

~~2. *Amendments to existing planned developments.* The signatures of any other owners within an existing planned development are not required if the owner applicant is eligible to apply for a zoning map amendment applicable solely its parcel as provided in subsection (A)(2).~~

~~C. *Documentation regarding the authority to apply.* The Director of Planning may require the applicant to submit documentation establishing ownership of any parcel that is the subject of the application and the authority of each signatory to sign the application on behalf of the owner.~~

~~D. *Application forms.* The Director of Planning may establish appropriate application forms for zoning map amendments. The application forms may identify the information required to be provided pursuant to Sections 33.16 through 33.19.~~

~~E. *Information submitted with an application.* Each application shall include the information identified in Sections 33.16 through 33.19, as applicable, provided that the Director of Planning may, upon written request received from the owner, determine that the owner is not required to provide certain information, depending on: (i) the nature or extent of the proposed zoning map amendment; (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 Director determines to be relevant applying sound zoning principles.~~

~~State law reference Va. Code §§ 15.2-2285, 15.2-2286, 15.2-2302.~~

~~[§ 33.15: (§ 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))+ (§ 33.4: § 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)+ (§ 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); § 33.15, Ord. 18-18(3), 9-5-18]~~

**~~Sec. 33.16 Information submitted with application; all applications.~~**

~~Each application for a zoning map amendment shall include the following information:~~

- ~~A. *Project proposal.* A narrative of the project proposal, including its public need or benefit.~~
- ~~B. *Comprehensive Plan.* 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.~~
- ~~C. *Impacts on public facilities and infrastructure.* A narrative of the proposed project's impacts on public facilities and public infrastructure.~~
- ~~D. *Impacts on environmental features.* A narrative of the proposed project's impacts on environmental features.~~
- ~~E. *Maps.* One or more maps showing the proposed project's regional context and existing natural and manmade physical conditions.~~
- ~~F. *Recorded plat or boundary survey.* 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 shall include a metes and bounds description of the boundaries.~~
- ~~G. *Ownership information.* 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 and all other related documents.~~
- ~~H. *Contact person.* The name, address, telephone number, and email address of a single contact person for communications between the county and the applicant.~~
- ~~I. *Payment of delinquent taxes and other charges.* Satisfactory evidence that any delinquent real estate taxes, nuisance charges, stormwater management utility fees, and any other charges that constitute a~~

lien on the parcel that is the subject of the application, that are owed to the County, and have been properly assessed against the parcel, have been paid.

J. ~~Other information.~~ Other special studies or documentation, if applicable, and any other information identified as necessary by the County on the pre-application comment form.

~~State law reference~~ Va. Code §§ 15.2-2285, 15.2-2286.

~~[§ 33.16: (§ 33.4: § 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); § 33.16, Ord. 18-18(3), 9-5-18]~~

### **Sec. 33.17 Information submitted with application; conventional districts.**

In addition to the information that may be required by Section 33.16, each application for a zoning map amendment to establish or amend a conventional district shall include a conceptual plan showing, as applicable:

A. ~~Street network.~~ The street network, including circulation within the project and connections to existing and proposed or planned streets within and outside of the project.

B. ~~Cross sections.~~ Typical street cross sections to show proportions, scale and streetscape/cross-sections/circulation.

C. ~~Pedestrian and bicycle facilities.~~ The general location of pedestrian and bicycle facilities.

D. ~~Buildings and parking.~~ Building envelopes and parking envelopes.

E. ~~Public areas.~~ Public spaces and amenities.

F. ~~Conservation and preservation areas.~~ Areas to be designated as conservation areas and preservation areas.

G. ~~Stormwater management.~~ Conceptual stormwater detention facility locations.

H. ~~Grading.~~ Conceptual grading.

~~State law reference~~ Va. Code §§ 15.2-2285, 15.2-2286.

~~[§ 33.17: (§ 33.4: § 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); § 33.17 Ord. 18-18(3), 9-5-18]~~

### **Sec. 33.18 Information submitted with application; planned development districts, including neighborhood model districts.**

In addition to the information that may be required by Section 33.16, each application for a zoning map amendment to establish or amend a planned development district, including a neighborhood model district, shall include the following information:

- A. ~~Map.~~ If the application is to amend an existing planned development district and the proposed amendment would affect less area than the entire district, the applicant shall submit a map showing the entire existing planned development district. The map shall also identify any area to be added to or deleted from the district, or identify the area to which the amended application plan, code of development, proffers, or any special use permit or special exception would apply.
- B. ~~Application plan.~~ If the application is to establish a planned development district, including a neighborhood model district, or to amend an approved application plan for an existing district, the applicant shall submit an application plan showing, as applicable:
1. ~~Street network.~~ The street network, including circulation within the project and connections to existing and proposed or planned streets within and outside of the project.
  2. ~~Cross sections.~~ Typical street cross sections to show proportions, scale, and streetscape/cross sections/circulation.
  3. ~~Pedestrian and bicycle facilities.~~ The general location of pedestrian and bicycle facilities.
  4. ~~Buildings and parking.~~ Building envelopes and parking envelopes.
  5. ~~Public areas.~~ Public spaces and amenities.
  6. ~~Conservation and preservation areas.~~ Areas to be designated as conservation areas and preservation areas.
  7. ~~Stormwater management.~~ Conceptual stormwater detention facility locations.
  8. ~~Grading.~~ Conceptual grading.
  9. ~~Use table.~~ 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.
  10. ~~Topography.~~ Topography, using the County's geographic information system or more accurate 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.
  11. ~~Water and sewer systems.~~ The general layout for water and sewer systems.
  - 12. ~~Central features and major elements.~~ 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.
  - 13. ~~Development standards.~~ Development standards, including proposed yards, open space — characteristics, and any landscape or architectural characteristics related to scale, proportions, — and massing at the edge of the district.
  - 14. ~~Lot layout.~~ A conceptual lot layout.
  - 15. ~~Green spaces and amenities.~~ If the application is to establish a neighborhood model district, — the location of proposed green spaces and amenities as provided in Section 20A.9.
  - ~~State law reference~~ Va. Code §§ 15.2-2285, 15.2-2286.

~~[§ 33.18: (§ 33.4: § 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); § 33.18 Ord. 18-18(3), 9-5-18]~~

**Sec. 33.19 Information submitted with application; neighborhood model districts.**

In addition to the information that may be required by Sections 33.16 and 33.18, if the application is to establish a neighborhood model district, the applicant shall provide the following information:

- A. ~~Statement.~~ A statement describing how the proposed district satisfies the intent of this chapter and, if one or more characteristics of the neighborhood model delineated in Section 20A.1 are missing from an application, the applicant shall justify why any characteristics cannot or should not be provided.
- B. ~~Neighborhood model principles.~~ A narrative explaining the project's consistency with the neighborhood model as described in the Comprehensive Plan.
- C. ~~Code of development.~~ A code of development satisfying the requirements of Section 20A.5.
- D. ~~Parking and loading needs study.~~ A parking and loading needs study that demonstrates parking needs and requirements. The study shall include strategies to address the parking 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. The Director of Planning may authorize the applicant to submit the parking and loading needs study in conjunction with the initial site plan for the development if the applicant shows to the Director's satisfaction that the uses that may occupy the buildings are not sufficiently known at the time of the zoning map amendment.
- E. ~~Stormwater management.~~ Strategies to establish shared stormwater management facilities, off-site stormwater management facilities, and the proposed phasing to establish stormwater management facilities.

~~State law reference Va. Code §§ 15.2-2285, 15.2-2286.~~

~~[§ 33.19: (§ 33.4: § 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); § 33.19, Ord. 18-18(3), 9-5-18]~~

**Sec. 33.20 Filing the application; determining completeness of the application; paying fees; resubmitting an application originally determined to be incomplete.**

Each application for a zoning map amendment shall be filed as follows:

- A. ~~Where to file.~~ The application shall be filed in the Department of Community Development.
- B. ~~Number of copies to file.~~ The Director of Planning may establish for each class of application the number of collated copies of the application required to be filed, to accept electronic applications for filing, or both.
- C. ~~Determining completeness of the application.~~ The Director of Planning shall review each filed application as follows:
  - 1. ~~Timing of the determination of completeness.~~ The Director shall determine whether an application is complete within 10 days after the application was received. An application that provides all of

~~the required information shall be determined to be complete and be accepted for review and decision. An application omitting any required information is incomplete and shall be deemed to not be filed and shall not be accepted for review and action.~~

- ~~2. *Informing an applicant if the application is incomplete.* If the Director determines that an application is incomplete, he shall inform the applicant by letter identifying what information must be submitted in order for the application to be complete. The letter shall be sent by first class mail or, if consented to by the applicant in writing, by fax or email (collectively, "sent"), or be personally delivered. The letter shall be sent or personally delivered within 10 days after the application was received.~~
- ~~3. *Effect if a timely determination is not made.* If the Director does not send or personally deliver the letter as provided in subsection (C)(2) within the 10 day period, the application shall be deemed to be complete, provided that: (i) the Director may require the applicant to later provide the omitted information within a period specified by the Director; and (ii) the Director may reject the application because it is incomplete if the applicant fails to timely provide the omitted information.~~
- ~~4. *If an application is incomplete; submitting information.* If an application is incomplete, the applicant may submit all of the information identified in the letter provided in subsection (C)(2) within 90 days after the letter was sent or personally delivered. The Director shall review the information submitted to determine whether the application is complete as provided in this subsection (C). An incomplete application is void if the applicant fails to submit all of the information identified in the letter provided in subsection (C)(2) 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.~~

~~D. *Mailed notice that a complete application has been filed.* For zoning map amendments pertaining to a parcel subject to an open space easement or a conservation easement, the Director of Planning shall 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 shall be sent by first class mail. The notice shall inform the recipient that the application has been filed and describe the nature of the application. An action on an application shall not be declared invalid solely because of the failure to timely mail this notice.~~

~~E. *Paying fees.* The applicant shall pay the fees required by Section 35.1 when the application is determined to be complete. The application shall not be reviewed, and any time by which action must be taken by the Commission or the Board of Supervisors shall not begin, until the applicant pays the fees.~~

~~F. *When an application is determined to be complete; effect.* When the Director of Planning determines that the applicant has submitted all of the required information, it is determined to be complete, it is officially submitted for review and it is deemed to be referred to the Commission for the purpose of calculating the time in which action must be taken pursuant to Sections 33.26 and 33.27.~~

~~— State law reference Va. Code §§ 15.2-2285, 15.2-2286.~~

~~[§ 33.20: (§ 33.4: § 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); § 33.20, Ord. 18-18(3), 9-5-18]~~

**Sec. 33.21 Studies identifying potential impacts of zoning map amendment.**

When the filed application is complete, the Director of Planning may require an applicant to submit studies identifying the nature and extent of potential impacts resulting from a proposed zoning map amendment. In addition:

A. ~~Studies pertaining to particular impacts.~~ The following requirements apply to particular impacts:

1. ~~Impacts on traffic, generally.~~ The Director may require a traffic study for any application for a zoning map amendment. The scope of the appropriate traffic study shall be determined by the County's transportation engineer in consultation with the Virginia Department of Transportation.
2. ~~Impacts on public transportation facilities, public safety facilities, public school facilities, and public parks; zoning map amendments for new residential development or new residential 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, the Director may require studies that identify the impacts of the project on public transportation facilities, public safety facilities, public school facilities, and public parks. If required, the studies shall identify impacts that are specifically attributable to the project and, for impacts to public facilities that are located outside of the project, shall also identify: (i) the extent to which the project creates a need, or an identifiable portion of a need, for one or more public facility improvements in excess of existing public facility capacity at the time of the zoning map amendment; and (ii) the extent to which the applicant or its successors would receive direct and material benefits from any proffer related to any public facility improvements.

B. ~~Form and content of studies; authority of the Director of Planning.~~ The Director may establish the form and determine the required content of any study.

C. ~~Time to submit studies.~~ The Director may establish deadlines by which any studies must be submitted by the applicant in order to provide County staff adequate time to review the study before scheduling the Commission's public hearing on the application.

— ~~State law reference~~ Va. Code §§ 15.2-2285, 15.2-2286, 15.2-2303, 15.2-2303.4.

(§ 33.21; Ord. 18-18(3), 9-5-18; Ord. 19-18(4), adopted 6-19-19, effective 7-1-19)

**Sec. 33.22 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 as follows:

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 shall be in writing and be in a form that is approved by the County Attorney. The Director of Planning may provide applicants with a proffer statement form.

C. ~~Proffers addressing impacts from new residential developments or 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 shall comply with the requirements of Virginia Code § 15.2-2303.4.



~~D. *Time to submit.* The applicant shall 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, shall 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, shall be submitted to the Department of Community Development before the Board's public hearing on the zoning map amendment. The Director of Planning may establish written guidelines that require signed proffers to be submitted a reasonable period of time prior to the public hearing to allow County officers and employees and members of the public a reasonable period of time to review the proffers.~~

~~State law reference Va. Code §§ 15.2-2303, 15.2-2303.4.~~

~~[§ 33.22: (§ 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); § 33.22 Ord. 18-18(3), 9-5-18; Ord. 19-18(4), adopted 6-19-19, effective 7-1-19]~~

### ~~Sec. 33.23 Work sessions.~~

~~The Director of Planning may schedule one or more work sessions before the Board of Supervisors, the Commission, and the Architectural Review Board ("ARB"), if applicable, on any application for a zoning map amendment, subject to the following:~~

- ~~A. *Purposes for a work session.* The purposes for a work session are to present the proposed project to the Board, the Commission, or the ARB with the Department of Community Development's analysis of the major issues, seek direction from the Board, the Commission, or the ARB on their expectations in addressing those issues.~~
- ~~B. *Factors to consider in requiring a work session.* When deciding whether to conduct a work session, the Director shall consider: (i) the nature of the approval requested; (ii) the acreage affected; (iii) the possible impacts that could result from an approved application; and (iv) any other factors deemed relevant upon applying sound zoning principles.~~
- ~~C. *When an applicant's consent is 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 Sections 33.25 and 33.26.~~

~~—State law reference Va. Code §§ 15.2-2285, 15.2-2286.~~

~~[§ 33.23: (§ 33.4: § 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); § 33.23 Ord. 18-18(3), 9-5-18]~~

### ~~Sec. 33.24 Community meetings.~~

~~The applicant shall schedule and conduct one or more community meetings on any application for a zoning map amendment, unless the requirement for a community meeting is waived as provided in subsection (B), subject to the following:~~

- ~~A. *Purposes for a community meeting.* The purposes for a community meeting are to provide interested members of the public with the opportunity to receive information about the proposed project, the~~

applicable procedure, the policies of the Comprehensive Plan, other relevant policies, and the regulations applicable to the proposed project, and to allow the public to ask questions about the proposed project.

- B. ~~Guidelines.~~ The Director of Planning shall establish written guidelines pertaining to notification of nearby landowners, scheduling, and conducting community meetings.
- C. ~~Community meeting may be waived; factors to consider.~~ The Director may waive the requirement for holding a community meeting. The community meeting may be waived when the Director, exercising reasonable discretion, decides that the meeting would not achieve the purposes for the meeting upon considering: (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, making a community meeting under this section unnecessary.
- D. ~~Holding in conjunction with a citizen advisory committee meeting.~~ A community meeting may be held during a citizen advisory committee meeting.
- E. ~~When community meeting is to be held.~~ A community meeting shall be held prior to the first public hearing on the application for a zoning map amendment.
- F. ~~Additional community meetings.~~ The Director 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 which is substantially different than the original project.

— State law reference Va. Code §§ 15.2-2285, 15.2-2286.

[~~§ 33.24; (§ 33.4; § 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); § 33.24, Ord. 18-18(3), 9-5-18]~~

### **Sec. 33.25 Public hearings; notice.**

Public hearings on an application for a zoning map amendment are required as follows:

- A. ~~When public hearings are required.~~ The Commission shall hold at least one public hearing before it makes its recommendation to the Board of Supervisors. After the Board receives the recommendation from the Commission, it shall hold at least one public hearing before acting.
- B. ~~Notice of public hearings.~~ Notice of the public hearings shall be provided as follows:
  - 1. ~~Published and mailed notice.~~ The Department of Community Development shall provide notice of the public hearings before the Commission and the Board as required by Virginia Code §§ 15.2-2204 and 15.2-2285(C).
  - 2. ~~Posted notice.~~ The Department of Community Development shall post notice of the public hearings by posting one or more signs as follows:
    - a. ~~When a sign must be posted.~~ The sign shall be posted at least 21 days before the Commission's public hearing and shall remain posted until the Board has acted on the application or the application has been withdrawn.

- b. ~~Where a sign to be located.~~ The sign shall be erected within 10 feet of each boundary line of the parcel(s) that is the subject of the zoning map amendment abutting a street and shall be placed so that it is clearly visible from the street. If more than one street abuts the parcel(s), then either: (i) a sign shall 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 zoning map amendment is approved is confined to a particular portion of the parcel(s), a sign 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 shall be erected in the same manner as above on at least two boundaries of the parcel(s) abutting land that is not subject to the zoning map amendment in locations that are most conspicuous to the public. Before posting a sign on a parcel, the Zoning Administrator shall obtain the consent of the owner to do so if the parcel is not owned by the County.
- e. ~~Content of a sign.~~ Each sign shall 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 shall 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 to defer action on an application until there is reasonable compliance with this subsection.
- e. ~~Ownership of a 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, except the applicant performing maintenance required by this subsection or the Zoning Administrator except the County or its employees or authorized agents performing maintenance required by this subsection.
- f. ~~Effect of failure to comply.~~ If the Department of Community Development fails to post any sign required by this subsection (B)(2):
1. ~~Prior to action by the Board.~~ The Board may defer acting on an application if it finds that the failure to comply with this subsection 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 is invalid solely because of the failure to post notice as required by this subsection.

~~— State law reference Va. Code §§ 15.2-2204, 15.2-2285, 15.2-2286.~~

~~[§ 33.25: (§ 33.4: § 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); § 33.25, Ord. 18-18(3), 9-5-18]~~

### ~~Sec. 33.26 Recommendation by the Planning Commission.~~

The Commission shall act on an application for a zoning map amendment as follows:

- A. ~~Recommendation.~~ The Commission shall either recommend approval of the zoning map amendment as proposed, approval of the zoning map amendment with recommended changes, or disapproval. 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, including a neighborhood model district, its recommendations on the application plan, the code of development, and any special exception requested.

~~B. *Factors to be considered.* In making its recommendation, the Commission shall consider the same factors considered by the Board of Supervisors pursuant to Section 33.27.~~

~~C. *Time for recommendation.* The Commission shall make its recommendation on the proposed zoning map amendment within 90 days after the application is determined to be complete. The failure of the Commission to make a recommendation on the matter within the 90-day period shall be deemed to be a recommendation of approval. The 90-day period may be extended if the applicant requests a deferral pursuant to Section 33.52.~~

~~— State law reference Va. Code §§ 15.2-2284, 15.2-2285, 15.2-2286.~~

~~[§ 33.26: (§ 33.4: § 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)+(§ 33.6: Ord. 12-18(7), 12-5-12, effective 4-1-13; § 33.9, 12-10-80); § 33.26, Ord. 18-18(3), 9-5-18]~~

### **Sec. 33.27 Action by the Board of Supervisors.**

The Board of Supervisors shall act on an application for a zoning map amendment as follows:

~~A. *Action.* The Board may either adopt the zoning map amendment, deny the application for a zoning map amendment, defer acting for a period of up to 36 months from the date the application was determined to be complete to allow changes to be made to the application by the applicant prior to action by the Board, or refer the matter back to the Commission for further consideration and recommendation within the time for an action provided in subsection (C).~~

~~1. *Authority to accept proffers.* In approving an application for a zoning map amendment, the Board may accept the proposed proffers.~~

~~— 2. *Intensification of use classification or expanding the land being rezoned is prohibited without additional notice and hearing.* 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).~~

~~B. *Factors to be considered.* In acting on a zoning map amendment, the Board shall reasonably consider the following factors: (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 community's transportation requirements; (vii) the requirements for airports, housing, schools, parks, playgrounds, recreation areas and other public services; (viii) the conservation of natural resources; (ix) preserving flood plains; (x) protecting life and property from impounding structure failures; (xi) preserving agricultural and forestal land; (xii) conserving properties and their values; and (xiii) encouraging the most appropriate use of land throughout the County. The Board's failure to expressly consider all of these factors does not invalidate its action. In addition:~~

1. ~~Additional factors to be considered when acting on an application to establish planned development district, including a neighborhood model district.~~ In addition to the other factors relevant to the consideration of a zoning map amendment, the Board shall consider the following when it reviews an application to establish a planned development district, including a neighborhood model 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 public services.
2. ~~Additional factors to be considered when acting on an application to amend existing planned development district.~~ In addition to the other factors relevant to the consideration of a zoning map amendment, the Board shall consider the following when it reviews an application to amend an existing planned development district: (i) whether the proposed amendment reduces, maintains, or enhances the criteria of a planned development stated in Section 8.3; and (ii) the extent to which the proposed amendment impacts the other parcels within the planned development district.

C. ~~Amendments to proposed proffers after the public hearing has begun.~~ The Board may accept, in its sole discretion, amended proffers after the public hearing on the zoning map amendment has begun if it 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.

D. ~~Time for action.~~ The Board shall act on an application for a zoning map amendment within a reasonable period as may be necessary, not to exceed 12 months after the application was determined to be complete. The 12 month period may be extended if the applicant requests a deferral pursuant to Section 33.52.

— ~~State law reference~~ Va. Code §§ 15.2-2204, 15.2-2284, 15.2-2285, 15.2-2286, 15.2-2303.

~~[§ 33.27: (§ 33.4: § 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)](§ 33.6: Ord. 12-18(7), 12-5-12, effective 4-1-13; § 33.9, 12-10-80)+(§ 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); § 33.27, Ord. 18-18(3), 9-5-18]~~

### **Sec. 33.28 Effect of approval of zoning map amendment; effect of proffers once accepted.**

The Board of Supervisors' adoption of a zoning map amendment constitutes acceptance of the proffers and also, 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:

- A. ~~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 part of the zoning regulations applicable to the parcel(s) that was the subject of the zoning map amendment.
- B. ~~Effect of proffers once they are accepted.~~ Once proffered and accepted by the Board in conjunction with an adopted zoning map amendment, the proffers continue in effect until a subsequent zoning map amendment changes the zoning of the parcel(s) subject to the proffers; provided that the proffers continue in effect if the subsequent zoning map amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance.

— ~~State law reference~~ Va. Code §§ 15.2-2285, 15.2-2286, 15.2-2303.

~~[§ 33.28: (§ 33.6: Ord. 12-18(7), 12-5-12, effective 4-1-13; § 33.9, 12-10-80)+(§ 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); § 33.28, Ord. 18-18(3), 9-5-18]~~

~~**Sec. 33.29 Resubmitting a similar denied application within one year is prohibited.**~~

~~An owner may not submit an application for a zoning map amendment that is substantially the same as a denied application for a zoning map amendment for the same parcel(s) within one year after the date of the denial by the Board of Supervisors.~~

— ~~State law reference~~ Va. Code §§ 15.2-2285, 15.2-2286.

~~[§ 33.29: (§ 33.4: § 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); § 33.29, Ord. 18-18(3), 9-5-18]~~

~~**Division 4. Special Use Permits**~~

~~**Sec. 33.30 Introduction.**~~

~~This division establishes the regulations and safeguards for filing, reviewing, and acting on applications for special use permits.~~

~~A. *Power to grant special use permits is reserved by the Board of Supervisors.* The Board of Supervisors reserves the power to consider and approve or deny all applications for special use permits except as the power has been delegated to the Board of Zoning Appeals to consider and approve or deny applications for special use permits as provided in Section 34.5.~~

~~B. *Matters eligible for a special use permit.* The Board may approve special use permits for those use classifications identified in the district regulations allowing identified uses by special use permit.~~

— ~~State law reference~~ Va. Code § 15.2-2286.

~~[§ 33.30: (§ 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)+(§ 33.4: § 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); § 33.30, Ord. 18-18(3), 9-5-18]~~

~~**Sec. 33.31 Pre-application meeting.**~~

~~Any prospective applicant for a special use permit shall request and hold a meeting with the Department of Community Development before filing an application with the Department. This meeting is referred to as the “pre-application meeting.”~~

~~A. *Submitting information.* The applicant shall complete and submit information on County provided forms before or during the pre-application meeting.~~

- ~~B. *Purposes for a pre-application meeting.* The purposes for a pre-application meeting are to: (i) provide the applicant and the County a common understanding of the proposed project; (ii) inform the applicant about the proposed project's consistency with the Comprehensive Plan, other relevant policies, and County regulations; (iii) broadly identify the planning, zoning, and other issues raised by the application that need to be addressed by the applicant; (iv) inform the applicant about the applicable procedure; and (v) allow the Director of Planning to identify the information the applicant must submit with the application pursuant to Section 33.33.~~
- ~~C. *When a pre-application meeting is not required.* The Director of Planning, exercising reasonable discretion, may decide that the pre-application meeting would not achieve the purposes for the meeting upon considering the following: (i) whether the proposed use, the proposed density, the proposed scale and potential impacts, and other relevant considerations applying sound zoning principles do not warrant a pre-application meeting; (ii) whether the information delineated in section 33.33 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; and (iv) whether the application raises any complex issues that create the need for the meeting.~~

~~— State law reference Va. Code § 15.2-2286.~~

~~[§ 33.31: (§ 33.4: § 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); § 33.31, Ord. 18-18(3), 9-5-18]~~

### ~~Sec. 33.32. Application for a special use permit. —~~

~~Each application for a special use permit shall be filed as follows:~~

- ~~A. *Who may file an application.* An owner, a contract purchaser with the owner's consent, the owner's authorized agent (collectively in this division, the "owner" or the "applicant"), or 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.*)."~~
- ~~B. *Who must sign an application.* The application shall 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.~~
- ~~C. *Documentation regarding the authority to apply.* The Director of Planning 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.~~
- ~~D. *Application forms.* The Director of Planning may establish appropriate application forms for special use permits.~~

~~E. Information required to be submitted with an application. Each application shall include the information identified in Section 33.33 required by the Director of Planning to be submitted. In determining what information the applicant must submit, the Director shall consider the proposed use and other relevant considerations applying sound zoning principles.~~

~~State law reference Va. Code § 15.2-2286.~~

~~[§ 33.32: (§ 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))+ (§ 33.4: § 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); § 33.32, Ord. 18-18(3), 9-5-18; Ord. 19-18(7), 12-4-19]~~

**Sec. 33.33 Information the Director of Planning may require to be submitted with application.**

The Director of Planning may require any of the following information to be submitted with an application for a special use permit:

- ~~A. Project proposal. A narrative of the project proposal, including its public need or benefit.~~
- ~~B. Comprehensive plan. 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.~~
- ~~C. Impacts on public facilities and infrastructure. A narrative of the proposed project's impacts on public facilities and public infrastructure.~~
- ~~D. Impacts on environmental features. A narrative of the proposed project's impacts on environmental features.~~
- ~~E. Maps. One or more maps showing the proposed project's regional context and existing natural and manmade physical conditions.~~
- ~~F. Conceptual plan. A conceptual plan showing, as applicable:
  - ~~1. Street network. The street network, including circulation within the project and connections to existing and proposed or planned streets within and outside of the project.~~
  - ~~2. Cross sections. Typical street cross sections to show proportions, scale, and streetscape/cross sections/circulation.~~
  - ~~3. Pedestrian and bicycle facilities. The general location of pedestrian and bicycle facilities.~~
  - ~~4. Buildings and parking. Building envelopes and parking envelopes.~~
  - ~~5. Public areas. Public spaces and amenities.~~
  - ~~6. Conservation and preservation areas. Areas to be designated as conservation areas and preservation areas.~~
  - ~~7. Stormwater management. Conceptual stormwater detention facility locations.~~
  - ~~8. Grading. Conceptual grading.~~~~



- G. ~~Recorded plat or boundary survey.~~ 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 shall include a metes and bounds description of the boundaries. If the applicant is an easement holder, also the most recently recorded easement plat showing the boundaries of the easement.
- H. ~~Ownership information.~~ 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 and all other related documents.
- I. ~~Contact person.~~ The name, address, telephone number, and email address of a single contact person for communications between the County and the applicant.
- J. ~~Payment of delinquent taxes.~~ Satisfactory evidence that any delinquent real estate taxes, nuisance charges, stormwater management utility fees, and any other charges that constitute a lien on any parcel that is the subject of the application, that are owed to the County and have been properly assessed against the parcel, have been paid; provided that the payment of delinquent taxes, nuisance charges, stormwater management utility fees, or other charges shall not be required when the applicant for a special use permit is an easement holder.
- K. ~~Other information.~~ Other special studies or documentation, if applicable, and any other information identified as necessary by the County on the pre-application comment form.

— ~~State law reference~~ Va. Code § 15.2-2286.

~~[§ 33.33: (§ 33.4: § 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); § 33.33, Ord. 18-18(3), 9-5-18]~~

**Sec. 33.34. Filing the application; determining completeness of the application; paying fees; resubmitting an application originally determined to be incomplete.**

Each application for a special use permit shall be filed as follows:

...

- A. ~~Mailed notice to the owner that an application for a special use permit has been filed by an easement holder or an electric cooperative.~~ The Department of Community Development shall provide written notice to the owner of the parcel for which a special use permit is sought when an application is filed by an eligible easement holder or an electric cooperative. The notice shall be provided within 10 days after the application for the special use permit is determined to be complete. The notice shall be sent by first class mail. The notice shall inform the recipient that the application has been filed and describe the nature of the application. An action on an application shall not be declared invalid solely because of the failure to timely mail this notice.
- B. ~~Mailed notice to certain easement holders that an application for a special use permit has been filed.~~ For special use permit applications pertaining to a parcel subject to an open space easement or a conservation easement, the Director of Planning shall 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 shall be sent by first class mail. The notice shall inform the recipient that the application has been filed and describe the nature of the application. An action on an application shall not be declared invalid solely because of the failure to timely mail this notice.

~~[§ 33.34: (§ 33.4: § 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); § 33.34, Ord. 18-18(3), 9-5-18; Ord. 19-18(7), 12-4-19]~~

**Sec. 33.35 Studies identifying potential impacts of special use permit.**

When the filed application is complete, the Director of Planning may require an applicant to submit studies identifying the nature and extent of potential impacts resulting from a proposed special use permit.

— State law reference Va. Code § 15.2-2286.

(§ 33.35; Ord. 18-18(3), 9-5-18)

**Sec. 33.36 Work sessions.**

The Director of Planning may schedule one or more work sessions before the Board of Supervisors, the Commission, and the Architectural Review Board (“ARB”), if applicable, on any application for a zoning map amendment, subject to the following:

- A. *Purposes for a work session.* The purposes for a work session are to present the proposed project to the Board, the Commission, or the ARB with the Department of Community Development’s analysis of the major issues, seek direction from the Board, the Commission, or the ARB on their expectations in addressing those issues.
- B. *Factors to consider in requiring a work session.* When deciding whether to conduct a work session, the Director shall consider: (i) the nature of the approval requested; (ii) the acreage affected; (iii) the possible impacts that could result from an approved application; and (iv) any other factors deemed relevant upon applying sound zoning principles.
- C. *When an applicant’s consent is required.* The applicant’s consent to a work session shall be required if the work session would extend the time for action by the Commission or the Board beyond the deadlines in Sections 33.39 and 33.40.

— State law reference Va. Code § 15.2-2286.

~~[§ 33.36: (§ 33.4: § 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); § 33.36, Ord. 18-18(3), 9-5-18]~~

**Sec. 33.37 Community meetings.**

The applicant shall schedule and conduct one or more community meetings on any application for a special use permit, unless the requirement for a community meeting is waived as provided in subsection (B), subject to the following:

- A. *Purposes for a community meeting.* The purposes for a community meeting are to provide interested members of the public with the opportunity to receive information about the proposed project, the applicable procedure, the policies of the Comprehensive Plan and other relevant policies, and the

regulations applicable to the proposed project, and to allow the public to ask questions about the proposed project.

~~B. *Guidelines.* The Director of Planning shall establish written guidelines pertaining to notification of nearby landowners, scheduling, and conducting community meetings.~~

~~C. *Community meeting may be waived; factors to consider.* The Director may waive the requirement for holding a community meeting. The community meeting may be waived when the Director, exercising reasonable discretion, decides that the meeting would not achieve the purposes for the meeting upon considering: (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, making a community meeting under this section unnecessary.~~

~~D. *Holding in conjunction with a citizen advisory committee meeting.* A community meeting may be held during a citizen advisory committee meeting.~~

~~E. *When community meeting is to be held.* A community meeting shall be held prior to the first public hearing on the application for a zoning map.~~

~~F. *Additional community meetings.* The Director 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 which is substantially different than the original project.~~

~~— State law reference Va. Code § 15.2-2286.~~

~~[§ 33.37: (§ 33.4: § 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); § 33.37, Ord. 18-18(3), 9-5-18]~~

### **Sec. 33.38 Public hearings; notice.**

Public hearings on an application for a special use permit are required as follows:

~~A. *When public hearings are required.* The Commission shall hold at least one public hearing before it makes its recommendation to the Board of Supervisors. After the Board receives the recommendation from the Commission, it shall hold at least one public hearing before acting.~~

~~B. *Notice of public hearings.* Notice of the public hearings shall be provided as follows:~~

~~1. *Published and mailed notice.* The Department of Community Development shall provide notice of the public hearing before the Commission and the Board as required by Virginia Code § 15.2-2204(A) and (B), as otherwise required for a zoning map amendment, and Virginia Code § 15.2-2204(C).~~

~~2. *Posted notice.* The Department of Community Development shall post notice of the public hearings before the Commission and the Board as follows:~~

~~a. *When a sign must be posted.* The sign shall be posted at least 21 days before the Commission's public hearing on the application and shall remain posted until the Board has acted on the application or the application has been withdrawn.~~

- b. ~~Where a sign is to be located.~~ The sign shall be erected within 10 feet of each boundary line of the parcel(s) that is the subject of the special use permit abutting a street and shall be placed so that it is clearly visible from the street. If more than one street abuts the parcel(s), then either: (i) a sign shall 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 zoning map amendment is approved is confined to a particular portion of the parcel(s), a sign 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 shall be erected in the same manner as above on at least two boundaries of the parcel(s) abutting land that is not subject to the zoning map amendment in locations that are most conspicuous to the public. Before posting a sign on a parcel, the Zoning Administrator shall obtain the consent of the owner to do so if the parcel is not owned by the County.
- e. ~~Content of a sign.~~ Each sign shall 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 shall 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 to defer action on an application until there is reasonable compliance with this subsection.
- e. ~~Ownership of a 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, except the applicant performing maintenance required by this subsection or the Zoning Administrator.
- f. ~~Effect of failure to comply.~~ If the Department of Community Development fails to post any sign required by this subsection (B)(2):
1. ~~Prior to action by the Board.~~ The Board may defer acting on an application if it finds that the failure to comply with this subsection 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 is invalid solely because of the failure to post notice as required by this subsection.

— ~~State law reference~~ Va. Code §§ 15.2-2204, 15.2-2286.

~~[\§ 33.38: (§ 33.4: § 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); § 33.38, Ord. 18-18(3), 9-5-18]~~

### **Sec. 33.39 Recommendation by the Planning Commission.**

The Commission shall act on an application for a special use permit as follows:

- A. ~~Recommendation.~~ The Commission shall either recommend approval of the application as proposed, approval of the application with changes to be made prior to action on the application by the Board of Supervisors, or denial of the application.

- ~~B. *Factors to be considered.* In making its recommendation, the Commission shall consider the same factors considered by the Board under Section 33.40.~~
- ~~C. *Conditions.* The Commission's recommendation should include its recommendations on any proposed conditions, applying the same criteria applied by the Board under section 33.40.~~
- ~~D. *Time for recommendation.* The Commission shall make its recommendation on the application within 90 days after the application is determined to be complete. The failure of the Commission to make a recommendation on the matter within the 90 day period shall be deemed to be a recommendation of approval. The 90 day period may be extended if the applicant requests a deferral pursuant to Section 33.52.~~

~~— State law reference Va. Code § 15.2-2286.~~

~~[§ 33.39: (§ 33.4: § 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)+(§ 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); § 33.39, Ord. 18-18(3), 9-5-18]~~

### ~~Sec. 33.40 Action by the Board of Supervisors.~~

~~The Board of Supervisors shall act on an application for a special use permit as follows:~~

- ~~A. *Action.* The Board may either approve the special use permit, deny the application, or defer action to either allow changes to be made to the application or any proposed conditions prior to final action by the Board, or to refer the matter back to the Commission for further consideration and recommendation within the time for an action provided in subsection (D).~~
- ~~B. *Factors to be considered.* In acting on a special use permit, the Board shall consider the following factors, provided that the Board is not required to make specific findings in support of its action:~~
- ~~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 regulations provided in Section 5 as applicable, and with the public health, safety, and general welfare.~~
  - ~~4. *Consistency with the Comprehensive Plan.* Whether the proposed special use will be consistent with the Comprehensive Plan.~~
- ~~C. *Conditions.* In approving a special use permit, the Board may impose reasonable conditions to address any possible impacts of the special use. Except as the Board may specify in a particular case, any condition imposed on a special use shall be deemed to be essential and nonseverable from the permit itself. Any condition determined to be unreasonable, invalid, void, or unlawful shall invalidate the special use permit. The conditions may pertain to, but are not limited to, the following:~~
- ~~1. Preventing or minimizing smoke, dust, noise, traffic congestion, flood, and other hazardous, deleterious or otherwise undesirable substances or conditions.~~
  - ~~2. Providing adequate police and fire protection.~~

3. ~~Providing adequate improvements pertaining to transportation, water, sewage, drainage, recreation, landscaping, and screening or buffering.~~
4. ~~Establishing 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 or the construction of any structure required for the use must begin.~~
6. ~~The materials and methods of construction or specific design features; provided that any condition imposed in connection with a residential special use permit: (i) shall be consistent with the objective of providing affordable housing if the applicant proposes affordable housing; and (ii) shall consider the impact of the condition on the affordability of housing.~~

~~D. *Time for action.* The Board shall act on an application for a special use permit within a reasonable period not to exceed nine months after the date the Commission made its recommendation on the application. The 12 month period may be extended if the applicant requests a deferral pursuant to Section 33.52.~~

~~— State law reference Va. Code § 15.2-2286.~~

~~[§ 33.40: (§ 33.4: § 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)+(§ 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); § 33.40, Ord. 18-18(3), 9-5-18]~~

### **Sec. 33.41 Revoking a special use permit for noncompliance with conditions.**

The Board of Supervisors may revoke a special use permit if it determines, after a public hearing, that the permittee or any successor has not complied with any conditions of the permit. Notice of the public hearing shall be as provided in Section 33.38. The written notice given by the Clerk of the Board to the owners, their agents, or the occupants of abutting parcels and parcels immediately across the street from the parcel(s) subject to the special use permit may be given by first class mail rather than by registered or certified mail.

~~— State law reference Va. Code §§ 15.2-2204, 15.2-2286.~~

~~[§ 33.41: (§ 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); § 33.41, Ord. 18-18(3), 9-5-18]~~

### **Sec. 33.42 Resubmitting a similar denied application within one year is prohibited**

An owner may not submit an application for a special use permit that is substantially the same as a denied application for a special use permit for the same parcel(s) within one year after the date of the denial by the Board of Supervisors.

~~— State law reference Va. Code § 15.2-2286.~~

~~[§ 33.42: (§ 33.4: § 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); § 33.42, Ord. 18-18(3), 9-5-18]~~

### **Division 5. Special Exceptions**

#### **Sec. 33.43 Introduction.**

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

- ~~A. *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.~~
- ~~B. *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.~~
- ~~C. *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.~~

~~— State law reference Va. Code § 15.2-2286.~~

~~[§ 33.43: (§ 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); § 33.43, Ord. 18-18(3), 9-5-18]~~

#### **Sec. 33.44 Application for a special exception.**

Each application for a special exception shall be filed as follows:

- ~~A. *Who may file an application.* An owner, a contract purchaser with the owner's consent, the owner's authorized agent (collectively in this division, the "owner" or the "applicant"), or an eligible easement holder may file an application for a special exception permit. An "eligible easement holder" is a holder of an easement for which the special exception is sought that pertains to a use allowed by the deed of easement or equivalent instrument.~~
- ~~B. *Who must sign an application.* The application shall be signed by the owner or the eligible easement holder of each parcel that is the subject of the special exception.~~
- ~~C. *Documentation regarding the authority to apply.* The Director of Planning may require the applicant to submit documentation establishing ownership of, or the easement interest in, any parcel that is the subject of the application and the authority of each signatory to sign the application on behalf of the owner or the eligible easement holder.~~
- ~~D. *Application forms.* The Director of Planning may establish appropriate application forms for special exceptions.~~
- ~~E. *Information required to be submitted with an application.* Each application shall include the information required by the applicable section of this chapter authorizing the waiver, modification, variation, or substitution.~~

~~— State law reference Va. Code § 15.2-2286.~~

~~[§ 33.44: (§ 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)); (§ 33.4: § 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); (§ 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); § 33.44, Ord. 18-18(3), 9-5-18]~~

**Sec. 33.45 Filing the application; determining completeness of the application; paying fees; resubmitting an application originally determined to be incomplete.**

Each application for a special exception shall be filed as follows:

- ~~A. *Where to file.* The application shall be filed with the Department of Community Development.~~
- ~~B. *Number of copies to file.* The Director of Planning may establish for each class of application the number of collated copies of the application required to be filed, to accept electronic applications for filing, or both.~~
- ~~C. *Determining completeness of the application.* The Director of Planning shall review each filed application as follows:
  - ~~1. *Timing of the determination of completeness.* The Director shall determine whether an application is complete within 10 days after the application was received. An application that provides all of the required information shall be determined to be complete and be accepted for review and decision. An application omitting any required information is incomplete and shall be deemed to not be filed and shall not be accepted for review and action.~~
  - ~~2. *Informing an applicant if the application is incomplete.* If the Director determines that an application is incomplete, the Director shall inform the applicant by letter explaining the reasons why the application was rejected as being incomplete. The letter shall be sent by first class mail, or, if consented to by the applicant in writing, by fax or by email (collectively, "sent"), or be personally delivered. The letter shall be sent or personally delivered within 10 days after the application was received.~~
  - ~~3. *Effect if a timely determination is not made.* If the Director does not send or personally deliver the notice as provided in subsection (C)(2) within the 10-day period, the application shall be deemed to be complete, provided that: (i) the Director may require the applicant to later provide the omitted information within a period specified by the Director; and (ii) the Director may reject the application as provided herein if the applicant fails to timely provide the omitted information.~~
  - ~~4. *If an application is incomplete; submitting information.* If an application is incomplete, the applicant may submit all of the information identified in the letter provided in subsection (C)(2) within 90 days after the letter was sent or personally delivered. The Director shall review the information submitted to determine whether the application is complete as provided in this subsection (C). An incomplete application is void if the applicant fails to submit all of the information identified in the letter provided in subsection (C)(2) 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.~~~~



~~D. *Paying fees.* The applicant shall pay the fees required by Section 35.1 when the application is determined to be complete. The application shall not be further reviewed until the applicant pays the fees.~~

~~E. *When an application is determined to be complete; effect.* When the Director of Planning determines that the applicant has submitted all of the required information, it is determined to be complete, and it is officially submitted for review for the purpose of calculating the time in which action must be taken pursuant to Sections 33.48 and 33.49.~~

~~F. *Mailed notice to the owner that an application for a special exception has been filed by an easement holder.* The Department of Community Development shall provide written notice to the owner of the parcel for which a special exception is sought when an application is filed by an eligible easement holder. The notice shall be provided within 10 days after the application for the special exception is determined to be complete. The notice shall be sent by first class mail. The notice shall inform the recipient that the application has been filed and describe the nature of the application. An action on an application shall not be declared invalid solely because of the failure to timely mail this notice.~~

~~G. *Mailed notice to certain easement holders that an application for a special exception has been filed.* For special exception applications pertaining to a parcel subject to an open space easement or a conservation easement, the Director of Planning shall 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 shall be sent by first class mail. The notice shall inform the recipient that the application has been filed and describe the nature of the application. An action on an application shall not be declared invalid solely because of the failure to timely mail this notice.~~

— State law reference Va. Code § 15.2-2286.

~~{§ 33.45: (§ 33.4: § 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); § 33.45, Ord. 18-18(3), 9-5-18}~~

### **Sec. 33.46 Studies identifying potential impacts of special exception.**

When the filed application is complete, the Director of Planning may require an applicant to submit studies identifying the nature and extent of potential impacts resulting from a proposed special exception:

State law reference Va. Code § 15.2-2286.

(§ 33.46; Ord. 18-18(3), 9-5-18)

### **Sec. 33.47 Public hearings; when required; notice.**

Public hearings on an application for a special exception are required as follows:

~~A. *When public hearings are required.* The Commission and the Board of Supervisors shall 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.~~

~~B. *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 (A), 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.~~

~~C. *Notice of public hearings.* When public hearings are required under subsection (A), the Department of Community Development shall provide notice of the public hearings before the Commission and the Board pursuant to Virginia Code § 15.2-2204(C).  
State law reference Va. Code §§ 15.2-2204, 15.2-2286.~~

~~[§ 33.47: (§ 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); § 33.47, Ord. 18-18(3), 9-5-18]~~

### ~~Sec. 33.48 Recommendation by the Planning Commission when required.~~

~~The Commission shall act on an application for a special exception as follows:~~

~~A. *When a Commission recommendation is required.* The Commission is required to act on an application for a special exception only if a public hearing on the application is required by Section 33.47(A) or the Board of Supervisors elects to have the Commission consider the application under Section 33.47(B).~~

~~B. *Recommendation.* The Commission shall either recommend 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.~~

~~C. *Factors to be considered.* In making its recommendation, the Commission shall consider the factors, standards, criteria, and findings, however denominated, in the applicable sections of this chapter.~~

~~D. *Conditions.* The Commission's recommendation should include its recommendations on the proposed conditions.~~

~~E. *Time for a recommendation.* The Commission shall 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 the 45-day period shall be deemed to be a recommendation of approval. The 45-day period may be extended if the applicant requests a deferral pursuant to Section 33.52.~~

~~State law reference Va. Code § 15.2-2286.~~

~~[§ 33.48: (§ 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)+ (§ 33.9: Ord. 12-18(7), 12-5-12, effective 4-1-13; § 31.8, Ord. 12-18(1), 2-8-12); § 33.48, Ord. 18-18(3), 9-5-18]~~

### ~~Sec. 33.49 Action by the Board of Supervisors.~~

~~The Board of Supervisors shall act on an application for a special exception as follows:~~

~~A. *Action.* The Board may either approve the application, deny the application, or defer action to either allow changes to be made to the application or any proposed conditions prior to final action by the Board, or to refer the matter to the Commission for further consideration and recommendation within the time for an action provided in subsection (D).~~

~~B. *Factors to be considered.* In acting on a special exception, the Board shall consider the factors, standards, criteria, and findings, however denominated, in the applicable sections of this chapter, provided that the Board shall not be required to make specific findings in support of its action.~~

~~C. *Conditions.* In approving a special exception, the Board 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 shall be deemed to be essential and nonseverable from~~

~~the special exception itself. Any condition determined to be unreasonable, invalid, void, or unlawful shall invalidate the special exception.~~

~~D. *Time for action.* The Board shall act on an application for a special exception within 90 days after the application is determined to be complete. The 90-day period may be extended if the applicant requests a deferral pursuant to Section 33.52.~~

~~State law reference Va. Code § 15.2-2286.~~

~~[§ 33.49: (§ 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) + (§ 33.9: Ord. 12-18(7), 12-5-12, effective 4-1-13; § 31.8, Ord. 12-18(1), 2-8-12); § 33.49, Ord. 18-18(3), 9-5-18]~~

### **Sec. 33.50 Revoking a special exception for noncompliance with conditions**

~~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 shall be as provided in Virginia Code § 15.2-2204. The written notice given by the Clerk of the Board to the owners, their agents, or the occupants of abutting parcels and parcels immediately across the street from the parcel(s) subject to the special exception may be given by first-class mail rather than by registered or certified mail.~~

~~State law reference Va. Code §§ 15.2-2204, 15.2-2286.~~

~~(§ 33.50; Ord. 18-18(3), 9-5-18)~~

### **Sec. 33.51 Resubmitting a similar denied application within one year is prohibited.**

~~An owner may not submit an application for a special exception that is substantially the same as a denied application for a special exception for the same parcel(s) within one year after the date of the denial by the Board of Supervisors.~~

~~State law reference Va. Code § 15.2-2286.~~

~~(§ 33.51; Ord. 18-18(3), 9-5-18)~~

## **Division 6. Deferring Action and Withdrawing an Application**

### **Sec. 33.52 Deferring action.**

~~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 as follows:~~

~~A. *Request for deferral on applications submitted on and after September 5, 2018.* For any application submitted on and after September 5, 2018, the applicant may request that the County suspend review of the application and extend the time period for action by the Commission or the Board (the terms “suspend review” and “extend the time for action” are collectively referred to as a “deferral” or a variation of that word) as follows:~~

- ~~1. *Request for deferral.* The applicant shall submit the written request to defer to the Director of Planning. The request shall state the date by which the applicant requests the Board will act on the application, which may not exceed 36 months after the date the application was determined to be complete.~~
- ~~2. *Limitation.* The application may not be in a state of deferral beyond 32 months after the date the application was determined to be complete if the Commission has not yet held a public hearing on the application; and further provided that the application may not be in a state of deferral beyond~~

33 months after the date the application was determined to be complete if the Commission has held a public hearing and made a recommendation on the application.

- 3. *Effect of receiving request.* Upon the Director of Planning receiving a request for a deferral, review of the application shall stop and any advertised public hearing shall be cancelled.—  
— However, an applicant may resubmit information for review according to the published schedule established by the Director in anticipation of action by the Board before the deferral period ends.

B. *Request for deferral on applications submitted more than 36 months before September 5, 2018.* For any application submitted more than 36 months before September 5, 2018, the applicant shall submit a written request to defer to the Director within 30 days after the applicant receives written notice from the Director about the requirements of this subsection. The Board shall act on the application within 12 months after September 5, 2018;

C. *Request for deferral on applications submitted less than 36 months before September 5, 2018.* For any application submitted less than 36 months before September 5, 2018, the applicant shall submit a written request to defer to the Director within 30 days after the applicant receives written notice from the Director about the requirements of this subsection. The Board shall act on the application within the 36-month period or a reasonable period of time beyond the 36-month period required to complete the review of the application and to hold any required public hearings;

~~State law reference~~ Va. Code § 15.2-2286.

~~{§ 33.52: (§ 33.4: § 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); § 33.52, Ord. 18-18(3), 9-5-18}~~

### **Sec. 33.53 Requesting action after deferral.**

After the applicant's request for a deferral is granted by the Director of Planning, the applicant is responsible for requesting action by the Commission or the Board of Supervisors as follows:

A. *Request for action by the Commission.* When the applicant is ready for action by the Commission, the applicant shall make a written request to the Director of Planning and submit all information necessary for action according to the published schedule established by the Director.

B. *Request for action by the Board of Supervisors.* When the applicant is ready for action by the Board, the applicant shall make a written request to the Director of Planning and submit all information necessary for action according to the published schedule established by the Director.

C. *When the request for action must be received.* The written request shall be received by the Director no later than 120 days before the end of the deferral period.

D. *Action on an application by the Board of Supervisors.* The Board may act on the application at any time before the end of the deferral period; provided that the Board may act on the application as soon thereafter as: (i) the Commission has held a public hearing and made a recommendation; and (ii) County staff has had sufficient time to analyze the application and satisfy all public notice requirements. On any application pending before the Board, the Director of Planning shall coordinate scheduling the application for public hearing or action, or both, with the Clerk of the Board.

E. *Extension of action beyond the end of the deferral period in extenuating circumstances.* The time for action may be extended beyond the end of the deferral period if there are extenuating circumstances

which include, but are not limited to, inclement weather, civil emergencies, or errors in providing public notice as required by State law.

~~State law reference~~ Va. Code § 15.2-2286.

~~[§ 33.53: (§ 33.4: § 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); § 33.53, Ord. 18-18(3), 9-5-18]~~

### **Sec. 33.54 Withdrawing an application.**

An applicant for a zoning map amendment, special use permit, or special exception may request that its application be withdrawn, or an application may be deemed withdrawn, as follows:

- ~~A. *Withdrawing an application.* An applicant for a zoning map amendment, special use permit, or special exception may request that its application be withdrawn by submitting a written request to withdraw the application as follows:~~
- ~~1. *To whom the request is to be sent.* The written request must be sent to the Director of Planning. If the application is pending before the Board of Supervisors at the time the request is received, the Director shall immediately inform the Clerk of the Board of the request.~~
  - ~~2. *When the request must be received.* The request must be received by the Director or the Clerk before the Commission or the Board, as applicable, begins to consider the application on a meeting agenda.~~
  - ~~3. *Effect of timely receipt of request to withdraw.* When the request to withdraw is received, the application shall not be further processed or reviewed by County staff, nor acted on by the Commission or the Board.~~
  - ~~4. *Resubmitting a similar withdrawn application within one year prohibited.* An owner may not submit an application that is substantially the same as a withdrawn application for the same parcel(s) within one year after the date of the withdrawal.~~
- ~~B. *When an application is deemed withdrawn.* An application shall be deemed to be voluntarily withdrawn if the applicant requests deferral pursuant to subsection 33.52(A) and fails to provide within 90 days before the end of the deferral period all of the information required to allow the Board to act on the application, or fails to request a deferral as provided in subsection 33.52(B) or (C).~~

~~State law reference~~ Va. Code § 15.2-2286.

~~[§ 33.54: (§ 33.4: § 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); § 33.54, Ord. 18-18(3), 9-5-18]~~

### **Sec. 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. These

provisions are intended to support and promote the Comprehensive Plan, the purpose and intent of the Zoning Ordinance, and to promote equity in all decisions.

(§ 33.1, Ord. 20-18(3), 6-2-21)

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

**Sec. 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. 20-18(3), 6-2-21)

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

**Sec. 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. 20-18(3), 6-2-21)

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

**Sec. 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 section, 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 section, 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 section. 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 (i) a utility consumer services cooperative formed under or subject to the Utility Consumer Services Cooperatives Act (Virginia Code § 56-231.15 *et seq.*) or (ii) 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:

	<u>Conventional Rezoning</u>	<u>Special Use Permit</u>	<u>Planned Development Districts</u>	<u>Neighborhood Model District</u>
<u>A narrative of the project proposal, including its public need or benefit</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>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</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>A narrative of the proposed project's impacts on public facilities and public infrastructure.</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>A narrative of the proposed project's impacts on environmental features.</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>One or more maps showing the proposed project's regional context and existing natural and manmade physical conditions</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>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.</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>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.</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>The name, address, telephone number and e-mail address of a single contact person for communications between the County and the applicant.</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>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.</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>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.</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>

	<u>Conventional Rezoning</u>	<u>Special Use Permit</u>	<u>Planned Development Districts</u>	<u>Neighborhood Model District</u>
<u>Studies identifying cultural, historical or archeological resources potentially impacted by the proposed use.</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>For zoning map amendments, a local traffic impact statement as required by Virginia Code § 15.2-2222.1 and 24 VAC 30-155-40.</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>If private streets are proposed, the applicant must submit a request for private streets compliant with section 14 234.</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>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</u>	<u>X</u>	<u>X</u>		
<u>A conceptual plan showing, as applicable, typical cross-sections to show proportions, scale and streetscape/cross-sections/circulation</u>	<u>X</u>	<u>X</u>		
<u>A conceptual plan showing the general location of any pedestrian and bicycle facilities</u>	<u>X</u>	<u>X</u>		
<u>A conceptual plan showing any building envelopes</u>	<u>X</u>	<u>X</u>		
<u>A conceptual plan showing any parking envelopes</u>	<u>X</u>	<u>X</u>		
<u>A conceptual plan showing any public spaces and amenities</u>	<u>X</u>	<u>X</u>		
<u>A conceptual plan showing any areas to be designated as conservation and/or preservation areas</u>	<u>X</u>	<u>X</u>		
<u>A conceptual plan showing any conceptual stormwater detention facility locations</u>	<u>X</u>	<u>X</u>		
<u>A conceptual plan showing any conceptual grading.</u>	<u>X</u>	<u>X</u>		
<u>A narrative of any proffers proposed to address impacts from the proposed project</u>	<u>X</u>		<u>X</u>	<u>X</u>
<u>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</u>			<u>X</u>	<u>X</u>

	<u>Conventional Rezoning</u>	<u>Special Use Permit</u>	<u>Planned Development Districts</u>	<u>Neighborhood Model District</u>
<u>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;</u>			X	X
<u>An application plan showing, as applicable, typical cross-sections to show proportions, scale and streetscape/cross-sections/circulation.</u>			X	X
<u>An application plan showing the general location of any pedestrian and bicycle facilities</u>			X	X
<u>An application plan showing any building envelopes</u>			X	X
<u>An application plan showing any parking envelopes</u>			X	X
<u>An application plan showing any public spaces and amenities</u>			X	X
<u>An application plan showing any areas to be designated as conservation and/or preservation areas;</u>			X	X
<u>An application plan showing any conceptual on-site stormwater detention facility locations</u>			X	X
<u>An application plan showing any conceptual grading</u>			X	X
<u>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</u>			X	X
<u>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;</u>			X	X
<u>An application plan showing, as applicable, the general layout for water and sewer systems;</u>			X	X

	<u>Conventional Rezoning</u>	<u>Special Use Permit</u>	<u>Planned Development Districts</u>	<u>Neighborhood Model District</u>
<u>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;</u>			X	X
<u>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</u>			X	X
<u>An application plan showing, as applicable, a conceptual lot layout</u>			X	X
<u>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.</u>			X	X
<u>A narrative as to the project’s consistency with the neighborhood model principles</u>				X
<u>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</u>				X
<u>A statement describing how the proposed district satisfies the intent of section 20A</u>				X
<u>A code of development satisfying the requirements of section 20A.5</u>				X
<u>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.</u>				X

	<u>Conventional Rezoning</u>	<u>Special Use Permit</u>	<u>Planned Development Districts</u>	<u>Neighborhood Model District</u>
<u>Strategies for establishing shared stormwater management facilities, off-site stormwater management facilities, and the proposed phasing of the establishment of stormwater management facilities</u>				<u>X</u>

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. 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 invalidated solely because of a 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) to 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 unlikely 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).

(§ 33.4, Ord. 20-18(3), 6-2-21)

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

### **Sec. 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. 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 exception is an easement holder.
- D. 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.

E. 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 invalidated solely because of a 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.

F. 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.

G. Notice of the public hearing will be as provided in section 33.10.

H. *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.

I. 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.

J. *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).

K. *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.

L. *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. 20-18(3), 6-2-21)

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

**Sec. 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. 20-18(3), 6-2-21)

State law reference – Va. Code §§ 15.2-2284, 15.2-2285, 15.2-2286(A)(7).

### **Sec. 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. Unless expressly provided otherwise in the approved proffers, proffer 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. 20-18(3), 6-2-21)

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

### **Sec. 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. 20-18(3), 6-2-21)

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

### **Sec. 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. 20-18(3), 6-2-21)

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

### **Sec. 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 will be invalidated 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.

(§ 33.10, Ord. 21-18(3), 6-2-21)

State law reference – Va. Code §§ 15.2-107, 15.2-2204, 15.2-2285, 15.2-2286.

### **Sec. 33.11 Deferring 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.

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) neither the Commission nor the Board will act on the application, and (ii) 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). If the application is withdrawn the application will not be further processed or reviewed by County staff,

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.

(§ 33.11, Ord. 21-18(3), 6-2-21)

State law reference – Va. Code § 15.2-2286.

I, Claudette K. Borgersen, do hereby certify that the foregoing writing is a true, correct copy of an Ordinance duly adopted by the Board of Supervisors of Albemarle County, Virginia, by a vote of \_\_\_\_\_ to \_\_\_\_\_, as recorded below, at a regular meeting held on \_\_\_\_\_.

\_\_\_\_\_  
Clerk, Board of County Supervisors

	<u>Aye</u>	<u>Nay</u>
Mr. Gallaway	_____	_____
Ms. LaPisto-Kirtley	_____	_____
Ms. Mallek	_____	_____
Ms. McKeel	_____	_____
Ms. Palmer	_____	_____
Ms. Price	_____	_____