

.. 154.043 AMENDMENTS.

(A) *Amending the zoning ordinance text or zoning map.*

(1) *General requirements, intent, and factors to be considered.*

(a) Whenever the public necessity, convenience or general welfare or good zoning practice justifies such action, and after consideration and recommendation by the Planning Commission, the Board of Supervisors may, by ordinance, change the text regulations set forth in this chapter and/or the official zoning map of the county.

(b) In the process of reviewing and considering proposed zoning text and/or map amendments, reasonable consideration shall be given to the applicable factors in VA Code ... 15.2-2283 and 15.2-2284. Also in reviewing and considering proposed zoning map amendment(s), the proffers offered by an applicant shall be considered, so long as they were submitted in a timely manner and submitted in proper form.

(2) *Receipt of application.*

(a) A proposed change of zoning district boundaries or proposed change in the text of the ordinance may be initiated by one of the following methods:

1. By resolution of the Board of Supervisors;

2. By motion of the Planning Commission; or

3. By petition addressed to the Board of Supervisors of a property owner, or contract purchaser with the owners' written and notarized consent, or of the owners' agent, of the property which is the subject of the proposed zoning map amendment.

(b) An application must be submitted in writing, on county-prepared forms, to the Zoning Administrator. The application

must be accompanied by the documents specified as "Documents to be Submitted" below in this chapter. All information provided by the applicant must be true and accurate.

~~(e) As allowed by VA Code 15.2-2286(A)(7), petitions will be accepted and processed on a quarterly basis with the application deadlines as follows: March 31, June 30, September 30, December 31.~~

(B) *Analysis and processing of application.*

(1) After receiving the application, the Zoning Administrator shall first determine if all of the submission requirements of this section have been met. Should additional information be required to satisfy the adopted minimum submission requirements, the Zoning Administrator shall inform the applicant within seven business days after receipt that the application is rejected until such time as the submission requirements are satisfied and identify which requirements have not been met.

2) Upon receipt of an application satisfying all adopted submission requirements, the Zoning Administrator will submit the application to the Director of Planning and Zoning.

(3) The Director of Planning and Zoning shall notify, in writing, the applicant, the Chairperson of the Planning Commission, and the Chairperson of the Board of Supervisors that the application has been received and judged to have met the minimum submission requirements to allow further processing. Conformance with the adopted minimum submission requirements does not mean that the application is in conformance with all applicable chapter requirements.

(4) The Director of Planning and Zoning, on behalf of the Board of Supervisors, will notify the applicant, the Planning Commission and the Board of Supervisors of the proposed dates for the public hearings on the application before the Planning Commission and the Board of Supervisors. The Planning

Commission shall hold its public hearing and take action on the application within 100 days of its first meeting following notification of application acceptance by the Zoning Administrator. The Board of Supervisors shall act on the application within a reasonable time not to exceed 12 months of acceptance. The applicant may consent to the extension of these time frames. Both the Commission and the Board may ask for additional information from the applicant during their reviews of the application.

(5) The Director of Planning and Zoning shall also provide other appropriate agencies with copies of the application and other pertinent documents to allow them to comment on the application.

(6) At the option of the Planning Commission, the Commission may arrange with the applicant to have an informal briefing on the project for the Planning Commission prior to the required public hearing.

(7) In consultation with the Chairpersons of the Planning Commission and of the Board of Supervisors, the Director of Planning and Zoning shall establish the actual dates for public hearings before the Commission and Board and coordinate for legal notice of the public hearings before the Commission and Board, and coordinate the legal notice of the public hearings before the Commission and Board.

(8) The Director of Planning and Zoning shall prepare an analysis of the proposed application and prepare a written report to the Planning Commission and Board of Supervisors giving the staff findings and recommendations concerning the proposal prior to the public hearings, including the comments and conclusion of other agencies reviewing the application.

(C) *Consideration of application by the Planning Commission.* After public notice has been given in accordance with VA Code .. 15.2-2204, the Planning Commission shall hold a public hearing on the proposed amendment.

Failure of the Planning Commission to submit its recommendation regarding the application 100 days after the first meeting of the Planning Commission after the proposed amendment has been referred to the Planning Commission, or such shorter period as may be prescribed by the governing body, shall be deemed approval, unless the proposed amendment has been withdrawn by the applicant prior to the expiration of the time period.

(D) *Consideration of application by the Board of Supervisors.* The Board of Supervisors shall consider the proposed amendment after notice and public hearing in accordance with VA Code .. 15.2-2204. The Board of Supervisors and the Planning Commission may hold a joint public hearing, in which case the public notice may be handled and published concurrently.

(1) The Board of Supervisors may take up to one year from the date that the Zoning Administrator determines that the application met all adopted submission requirements in which to make its decision regarding the proposed amendment. Additional time may be taken when authorized by state law.

(2) After its public hearing, the Board of Supervisors may make appropriate changes or corrections in the proposed amendment, however, under no circumstances shall ~~no~~ additional land be rezoned, or a more intensive classification be approved, than was contained in the public notice required by VA Code .. 15.2-2204.

(3) Each motion of intent to amend by the Board of Supervisors shall state the public purpose of the amendment as required by VA Code .. 15.2-2287.

(E) *Reconsideration of applications.* A property owner or other applicant to amend this chapter may not submit substantially the same application for amendment within a period of 12 months from the date of the original denial by the Board of Supervisors.

(F) *Withdrawal of rezoning applications/petitions.* An applicant for rezoning may

withdraw the application/petition from consideration at any time prior to the Board of Supervisors action without prejudice to being able to refile the same or a similar application within one year.

(G) *Conflict of interest.* An application brought by a property owner, contract purchaser, or the agent thereof shall be sworn to under oath before a notary public or other official before whom oaths may be taken, stating whether or not:

(1) Any member of the Planning Commission or the Board of Supervisors has any interest in such property, either individually, by ownership of stock in a corporation owning such land or partnership; or

(2) Whether a member of the immediate household of any member of the Commission or governing body has any such interest.

(H) *Documents to be submitted for owner-initiated zoning map changes.* When a zoning map change application/petition is submitted by a property owner, a contract purchaser with the owners' consent, or by the owners' agent, the following items must be submitted in conjunction with the application before it can be accepted.:

(1) Ten copies of a legal description of the property for which the change of zoning is requested, including a metes and bounds description of the application property and one for each zoning district proposed.

(2) Ten copies of a certified plat showing the property drawn at a scale with sufficient references to existing streets and subdivisions to enable the property to be located on county maps. The plat must include a scale and north arrow (if feasible, oriented to the top), and show the proposed streets/roads/rights-of-way, utility lines, trails, bike and/or bridle paths, water bodies and Chesapeake Bay Preservation features, soil types and their locations, and open space areas. The plat shall also show the locations and distances to existing and proposed buildings, structures

and uses, the names and numbers of all boundary roads/streets; and the widths of all existing and proposed rights-of-way and parking areas. The plat shall also include a tabulation chart showing the existing and proposed zoning, the existing and proposed use(s), the number of dwelling units and supporting buildings or structures and their sizes in square feet (for proposed residential structures), the number of buildings or structures and their sizes in square feet and floor area ratio (for proposed non-residential uses), the amount and type of open space, the area used to calculate density/intensity of the proposed use, and the vehicle trips per day and by peak hour anticipated to be generated by the proposed use (ITE trip generation figures should be provided at a minimum). The plat shall contain the seal and signature of the professional that prepared it.

(3) The names and addresses, of the property owners abutting the application property and across the street from it, and the county tax parcel numbers of their properties.

(4) A completed application for zoning map change on forms provided by the Zoning Administrator, including payment of the review fee and submission of any proffers being proposed.

(5) A written Statement of Justification for the application addressing:

(a) Whether and how the proposed application and its use(s) are consistent with the adopted Comprehensive Plan;

(b) Whether and how the proposed application and its use(s) are in compliance with all applicable zoning ordinance regulations;

(c) Whether and how the proposed application and its use(s) are consistent with the individual zoning criteria in Va. Code ... 15.2-2283 and 15.2-2284;

(d) Whether and how the proposed application and its use(s) will protect, and not damage the county's fresh water aquifer

and water quality (including groundwater);

(e) Whether and how the proposed application and use(s) are compatible with existing or proposed uses in the neighborhood and with adjacent parcels;

(f) Whether and why there is sufficient existing or proposed landscaping, screening and buffering on the application property and/or in the neighborhood to adequately screen surrounding uses;

(g) Whether and how the proposed application and use(s) will result in the preservation of topographic, physical, natural, scenic, archaeological and/or historic features of significance;

(h) Whether and why the traffic expected to be generated by the proposed use(s) will be adequately and safely served by roads, pedestrian connections, and other transportation services;

(i) Whether and why the proposed use(s) will not affect the structural capacity or the sewage disposal functionality of the soils.

(I) *Documents to be submitted for a zoning text change.* When a zoning text change is proposed by a property owner, a contract purchaser with the owners' consent, or by the owners' agent, the following items must be submitted in conjunction with the application before it can be accepted:

(1) The proposed wording or re-wording of the text to be amended with references to the article, section and subsection that is proposed to be amended.

(2) A narrative description of the purposes to be served by the proposed amendment and how it would change the regulations of the zoning ordinance.

(3) Completed application/petition for zoning text change on forms provided by the Zoning Administrator, including payment of the review fee.

(4) A written Statement of Justification for the application addressing:

(a) Whether and how the proposed amendment is consistent with the adopted Comprehensive Plan;

(b) Whether and how the proposed amendment is consistent with the individual zoning criteria in Va. Code ... 15.2-2283 and 15.2-2284;

(c) Whether, how, and to what extent the proposed amendment and its use(s) are in compliance with all applicable zoning ordinance regulations;

(d) Whether, how, and to what extent the proposed amendment will protect the county's fresh water and water quality (including groundwater);

(e) Whether and how the proposed amendment and its use(s) are compatible with existing or proposed uses in the neighborhood and with adjacent parcels which may potentially be affected by the amendment;

(f) How the proposed amendment intends to mitigate any potentially adverse impacts caused by the proposed use(s) or regulatory change(s).

(J) *Joint processing of applications permitted.* In cases where applications, which are related to the same project, request amendments to the zoning map, amendments to the zoning text, the approval of a special use permit, or other approvals required to be made by the Board of Supervisors, it is the policy of the county that such applications may be submitted and processed as if they were a single application. Notwithstanding the above, action by the Planning Commission and Board of Supervisors on each application shall be considered and voted on separately.

(K) *Appeals.* Any action contesting the decision of the Board to adopt or failing to adopt a proposed zoning ordinance or amendment

thereto shall be filed within 30 days of the decision with the Circuit Court.

(L) *Recording changes on zoning map.* If, in accordance with the provisions of this chapter, changes are made in district boundaries or other matter portrayed on the official zoning map, such changes shall be entered on the official zoning map promptly after the change has been approved by the Board of Supervisors or no more than ten days after approval. Such changes shall be attested by the initials of the Zoning Administrator and the date of entry. A paper copy of such map or maps shall be filed with the Clerk of the Circuit Court of Northampton County. Changes to this chapter which involve matters portrayed on the official zoning map shall be entered onto the official zoning map. No change of any nature shall be made on the official zoning map or matter shown thereon except in conformity with the procedures set forth in this chapter. Any unauthorized change of whatever kind by any person shall be considered a violation of this chapter.

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