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

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

3.1 Definitions

Resubmission. For the purposes of calculating fees "Resubmission" means the submittal of additional information for review by the County in response to review comments from the County. The review comments shall clearly indicate if responses to the comment constitute a resubmission. The Agent may determine that submission of items such as additional copies of information, recorded documents, photographs, minor amendments to previously submitted items or other information should not be considered resubmission.

33.1 PURPOSE AND INTENT

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

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

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

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

The Board of Supervisors may amend, supplement, or change the zoning regulations, district boundaries, or classifications of property whenever the public necessity, convenience, general welfare, or good zoning practice requires. The initiation of this process shall be as follows:

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 shall be initiated: (i) by resolution of the Board of Supervisors; (ii) by motion or resolution of the Commission.

(§ 33.2, Ord. 12-18(7), 12-5-12, effective 4-1-13(§ 33.0, 12-10-80; Ord. 01-18(6), 10-3-01)(§ 33.1, 12-10- 80) (§33.2, 12-10-80) (§§ 33.2.1, 33.2.2, 33.2.3, 12-10-80; 5-5-82) (§ 33.10.2, 12-10-80, 3-10-93))
State law reference – Va. Code §§ 15.2-2285, 15.2-2286(A) (4), (7), 15.2-2302.

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

Each zoning text amendment and each county-initiated zoning map amendment shall be subject to the following:

A. The Agent may schedule work sessions before the Board of Supervisors, the Commission, and the Architectural Review Board, if applicable. The Agent is also authorized to 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 shall hold at least one public hearing before making its recommendation to the Board on each application. The Board also shall hold at least one public hearing before acting on the zoning text amendment or zoning map amendment.

C. Notice of the public hearing shall be as provided in Section 33.10.

D. Recommendation by the Planning Commission.

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

   1. *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.

   2. *Factors to be considered*. In making its recommendation, the Commission shall consider the same factors considered by the Board of Supervisors pursuant to subsection (E).

E. Action by the Board of Supervisors.

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

   1. *Action*. The Board may either adopt the zoning text amendment or zoning map amendment, deny the zoning text amendment or zoning map 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 shall reasonably consider the relevant factors contained in Section 33.6.

F. *Judicial review*. Any action contesting a decision of the Board of Supervisors under this section shall be as provided in Virginia Code § 15.2-2285(F).

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

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

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

The Board of Supervisors reserves the power to consider and approve or deny all applications for special use permits except 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. 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. The process shall be as follows:

A. *Pre-application meeting.* A pre-application meeting shall be held with each prospective applicant (the "applicant"), and the applicant shall complete and submit information on county-provided forms before submitting an application (collectively, the "pre-application meeting"), subject to the following:

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

2. *Purposes for a 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) broadly identify the comprehensive plan designation of the property; (iii) broadly identify issues generated by the project that should be addressed by the applicant; (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 shall be held unless the Agent, decides that the 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, the proposed district, and other

considerations he determines to be relevant under sound zoning principles do not warrant a pre-application meeting; (ii) whether the supplemental information delineated in subsection (E) can be identified without the meeting; (iii) whether the application would be one of a recurring nature for which the required information and the issues raised are well established for the proposed application; or (iv) whether the application raises any complex issues that create the need for the meeting.

B. *Who may file an application*. An owner, a contract purchaser with the owner's consent, or the owner's authorized agent may file an application for a zoning map amendment or special use permit (collectively in this division, the "owner" or the "applicant). In addition:

1. *Amendments to existing proffers*. Proffers that have been accepted by the Board of Supervisors in conjunction with a zoning map amendment may be amended by a later zoning map amendment. An owner whose parcel is subject to proffers may apply to amend the proffers applicable solely to that owner's parcel. An application to amend proffers is subject to the procedures and requirements of this division, provided that the requirements 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 Agent, the applicant submits a request to the Clerk of the Board before submitting its application for a zoning map amendment:

    a. *Waiving the requirement for public hearings*. The Board may waive the requirement for a public hearing by the Commission or by the Board, or both, and the associated notice requirements, as otherwise required by this division; 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 33.4a 33.4n and 33.10.

    c. *Waiving application requirements*. The Board may waive any supplemental information which may otherwise be required to be submitted with an application under subsection (E) and determine the number of copies of the application that must be filed.

2. *Amendments to existing planned developments*. An owner within an existing planned development may apply for a zoning map amendment applicable solely to that owner's parcel if it would not result in or require: (i) a change in use, density, or intensity on any other parcel in the planned development; (ii) a change to any regulation in a code of development that would apply to any other parcel in the planned development; (iii) a change to any other owner's express obligation under a regulation in a code of development; or (iv) a change to the application plan that would apply to any other parcel in the planned development.

3. *Application for a special use permit.* An eligible easement holder, or an electric cooperative may file an application for a special use permit. An "eligible easement holder" is a holder of an easement for which the special use permit is sought for a use allowed by the deed of easement or equivalent instrument.

For the purposes of this article, "electric cooperative" means (a) a utility consumer services cooperative formed under or subject to the Utility Consumer Services Cooperatives Act (Virginia Code § 56-231.15 *et seq.*) or (b) a distribution cooperative formed under the former Distribution Cooperatives Act (Virginia Code § 56-209 *et seq.*)

C. *Submitting an application*.

1. *Who must sign an application*. The application shall be signed by the owner of each parcel that is the subject of 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 is eligible to apply for a zoning map amendment applicable solely its parcel as provided in subsection (A)(2).

   c. *Application for a special use permit*. 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.

   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 shall be filed in the Department of Community Development.

4. *Number of copies to file*. The Agent 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.

5. *When to file*. The Agent may establish submittal dates for each class of application

D. *Information submitted with an application*. Each application shall include the information identified in Section 33.4 as applicable, provided that the Agent 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 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 to be relevant applying sound zoning principles.

E. The following information shall be provided unless the Agent or Board of Supervisors determines that the information is not required:

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

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

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

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

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

F. *Payment of delinquent taxes*. The applicant shall provide satisfactory evidence that any delinquent real estate taxes, nuisance charges, stormwater management utility fees, and any other charges that constitute a lien on the subject property, that are owed to the county and have been properly assessed against the subject property, have been paid; provided that the payment of such delinquent taxes, charges or fees shall not be 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 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 shall be deemed to be incomplete and shall not be accepted.

1. *Timing of determination of completeness*. The Agent shall determine whether an application is complete within ten (10) days after the first submittal date following the receipt of the application.

2. *Procedure if application is incomplete*. The Agent 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, be personally delivered or, if consented to by the applicant in writing, by fax or email. 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 shall review the information submitted to determine whether the application is complete as provided in this subsection (E). 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 the notice as provided in subsection (G)(2) within the ten (10) day period, the application shall be deemed to be 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.

4. *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 shall be provided to each owner subject to the same proffers as required by Virginia Code §§ 15.2-2204(H) and 15.2-2302.

5. *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 shall be provided to each owner of the lot for which the special use permit is sought as required by Virginia Code § 15.2-2204(H).

H. *When an application is determined to be complete; effect.*

1. When the Agent 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 subsection (O) except as provided in provision 3 of this subsection.

2. Notification of Applicant. The Agent shall notify the applicant by letter or by email that the application has been determined to be complete.

3. Paying fees. The applicant shall 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 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. An application is void if the applicant fails to pay the fees within 10 days after the applicant being notified that the application is determined to be complete or within twenty (20) days after the first submittal date following the 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.

4. *Mailed notice that a complete application has been filed*. For zoning map amendments or special use permit pertaining to a parcel subject to an open-space easement or a conservation easement, the Agent shall provide written notice within ten 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.

I. *Resubmittal of application originally determined to be incomplete*. Within six (6) months after the date the letter that an application was rejected as being incomplete was mailed, faxed, emailed or delivered by the Agent as provided in subsection (G)(2), the applicant may resubmit the application with all of the information required by subsections (B) thru (F) for a new determination of completeness under subsection (G).

J. *Worksessions*. For any application, the Agent may schedule worksessions before the Board of Supervisors, the Commission, and the Archictectural Review Board, if applicable, as he determines to be 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:

1. *Purposes for a worksession.* The purposes for a worksession are to present the proposed project to the Board or the Commission with the department of community development's analysis of the major issues, seek direction from the Board or Commission on their expectations in addressing 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 worksession shall be required if the worksession would extend the time for action by the Commission or the Board beyond the deadlines in subsection (O).

K. *Community meetings.* A community meeting shall be held for each application, subject to the following:

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 shall be held unless the Agent determines that the meeting would not achieve the purposes for the meeting upon considering the following: (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; or (iii) whether the applicant has already held one or more community meetings regarding the application so as to make a community meeting under this subsection unnecessary.

3. *Guidelines*. The Agent is authorized to establish written guidelines pertaining to which applications should have community meetings, when in the process community meetings should be conducted, and how a community meeting should be conducted 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 shall be 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 shall 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 which 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 shall hold at least one public hearing before making its recommendation to the Board on each application. The Board shall hold at least one public hearing before approving an application.

N. Notice of the public hearing shall be as provided in Section 33.10.

O. *Time for decision*. Each application shall be acted on as follows:

1. *By the planning Commission.* An application shall be acted on by the Commission 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. The failure of the Commission to make a recommendation on the application within the ninety (90) day period shall be deemed to be a recommendation of approval unless the applicant requests or consents to the ninety (90) day period being extended.

2. *By the Board of Supervisors*. An application shall be acted on by the Board of Supervisors within a reasonable period as may be necessary 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 the twelve (12) month period being extended.

3. *Tolling*. The period in which action is required by the Commission or the Board of Supervisors shall be tolled during any period in which the applicant has requested that the review of the application be suspended, or 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 to be 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 the twelve (12) month period being extended.

P. *Recommendation by Commission*. The Commission shall either recommend approval of the application as proposed, approval subject to changes being made prior to action by the Board of Supervisors, or disapproval. For any application for a zoning map amendment, the Commission's recommendation also should include its recommendations on 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 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 the proposed conditions.

Q. *Action by the Board of Supervisors*. The Board of Supervisors may either approve or deny the application or defer action to allow changes to be made prior to final action by the Board. In approving an application for a zoning map amendment, the Board may accept the 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 the denied application within one (1) year after the date of the denial.

T. *Judicial review*. Any action contesting a decision of the Board of Supervisors under this section shall be as provided in Virginia Code § 15.2-2285(F).

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

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

33.5 UNIFORM PROCEDURES FOR SPECIAL EXCEPTIONS

Each application for a special exception shall be subject to the following:

This division 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 shall be made as provided by, and include the information required by, the applicable section of this chapter authorizing the waiver, modification, variation or substitution and any studies the Agent may require identifying the nature and extent of potential impacts resulting from a proposed special exception.

B. *Submitting an application*.

1. *Who must sign an application* The application shall be filed by the owner, the contract purchaser with the owner's consent, or the owner's agent for the purpose of the special exception, or 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 shall 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 required to be filed, to accept electronic applications for filing, or both.

6. *When to file*. The Agent may establish submittal dates for special exception applications.

C. *Determining completeness of the application; rejecting incomplete applications.* 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 shall be deemed to be incomplete and shall not be accepted.

1. *Timing of determination of completeness.* The Agent shall determine whether an application is complete within ten (10) days after the first submittal date following the receipt of the application.

2. *Procedure if application is incomplete*. The Agent 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, be personally delivered or, if consented to by the applicant in writing, by fax or email. 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 shall review the information submitted to determine whether the application is complete as provided in this subsection (B). 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 the notice as provided in subsection (C)(2) within the ten (10) day period, the application shall be deemed to be 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.

4. *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 shall be provided to each owner of the lot for which the special exception is sought as required by Virginia Code § 15.2-2204(H).

D. *When an application is determined to be complete; effect.*

1. When the Agent 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 subsection (G) except as provided in provision 3 of this subsection.

2. Notification of Applicant. The Agent shall notify the applicant by letter or by email that the application has been determined to be complete.

3. 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. An application is void if the applicant fails to pay the fees within 10 days after the applicant being notified that the application is determined to be complete. The application is determined to be complete for the purpose of calculating the time in which action must be taken pursuant to subsection (C) only after the required fees have been paid.

5. *Mailed notice that a complete application has been filed*. For zoning map amendments or special use permit pertaining to a parcel subject to an open-space easement or a conservation easement, the Agent shall provide written notice within ten 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. Public hearings on an application for a special exception are required as follows:

1. *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.

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 (1), the Board may elect, either by policy or for an individual application, to have the Commission first make a recommendation on the application for a special exception and for either the Commission or itself to hold one or more public hearings.

F. Notice of the public hearing shall be as provided in Section 33.10.

G. *Time for decision*. Each application for a special exception shall be acted on by the Board of Supervisors within ninety (90) days following the first meeting of the Commission after it was referred to the Commission, according to the schedule established and administered by the Agent, or concurrently with a zoning map amendment, special use permit, or site plan appeal, whichever is longer.

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

1. *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 subsection (D)(1) or the Board of Supervisors elects to have the Commission consider the application under subsection (D)(2).

2. *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.

3. *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.

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

5. *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 33.11

I. *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 (F).

J. *Resubmittal of similar denied application*. An applicant may not submit an application that is substantially the same as the denied application within one (1) year after the date of the denial.

K. *Judicial review*. Any action contesting a decision of the Board of Supervisors under this section shall be as provided in Virginia Code § 15.2-2285(F).

(§ 33.5, Ord. 12-18(7), 12-5-12, effective 4-1-13; § 31.8, Ord. 12-18(1), 2-8-12; Ord. 16-18(3), 4-6-16)
State law reference – Va. Code § 15.2-2286(A)(3), 15.2-2288.1.

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

A zoning text amendment or a zoning map amendment shall be subject to the following:

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 shall consider these bases when making a recommendation on an application.

B. *Factors to be considered when acting*. The Commission and the Board of Supervisors shall reasonably consider the following factors when they are 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; and (xiii) the encouragement of the most appropriate use of land throughout the county.

1. *Additional factors to be considered when acting; application 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 shall consider the following 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; application 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 shall consider the following 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 shall constitute 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, the code of development, and any waivers or modifications it has approved by special exception as provided under section 8.2. The district designation, the accepted proffers, and, if applicable, the approved application plan, standards of development, and code of development, and, if applicable, the special exception shall be included as part of the zoning regulations applicable to parcel(s) that were the subject of the zoning map amendment.

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

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

The Board of Supervisors may accept proffers pursuant to Virginia Code §§ 15.2-2303 and 15.2-2303.4 in conjunction with zoning map amendments 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 Agent may provide applicants with 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 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 Agent 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.

3. *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.

E. *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:

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 part of the zoning regulations applicable to the parcel(s) that was the subject of the zoning map amendment.

2. *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.

F. *Subsequent amendments to proffers*. Once accepted by the Board of Supervisors in conjunction with an approved zoning map amendment, proffers may be amended by an owner-initiated zoning map amendment

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

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

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

Special use permits shall be subject to the following:

A. Factors to be considered when acting. The Commission and the Board of Supervisors shall reasonably consider the following factors when they are reviewing and acting upon 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 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.

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 to, but are not limited to, the following:

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 shall comply with subsection (c).

C. *Conditions related to residential uses.* Any conditions imposed in connection with residential special use permits: (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 conditions on the affordability of housing where the conditions specify the materials and methods of construction or specific design features.

D. *Conditions deemed to be essential and nonseverable.* Except as the Board of Supervisors 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 and any condition determined to be invalid, void or unlawful shall invalidate the special use permit.

E. *Revocation for noncompliance 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 shall be as provided in Section 33.10.

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

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

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

Special exceptions shall be subject to the following:

A. *Factors to be considered when acting*. In acting upon a special exception, the Board of Supervisors 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 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 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.

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 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.

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

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

33.10 PUBLIC NOTICE

Notice of public hearings. Notice of public hearings shall be provided as follows:

A. Notice for zoning text amendments shall be provided as follows:

1. 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 .

2. *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.

B. Notice for zoning map amendments and special use permits shall be provided as follows

1. *Published and mailed notice*. Notice of the public hearing before the Commission and the Board of Supervisors on an application shall be provided as required by Virginia Code § 15.2-2204; for zoning map amendments, as also provided by Virginia Code § 15.2- 2285(C); and, for zoning map amendments seeking to amend an existing planned development district, written notice of the proposed amendment also shall be provided to the owner of each parcel within the planned development district and the substance of that notice shall 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 shall be posted, as follows:

   a. *When sign must be posted*. The sign shall be posted by the Zoning Administrator at least twenty-one (21) days before the Commission's public hearing on the application and shall remain posted until the Board of Supervisors has acted on the application or the application has been withdrawn.

   b. *Where sign to be located*. The sign shall be erected within ten (10) feet of each boundary line of the parcel(s) that abuts a street and shall be so placed as to be 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 application was granted 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 not owned by the applicant in locations that are most conspicuous to the public. The filing of the application shall be deemed to grant consent to the Zoning Administrator to enter the parcel(s) to erect the signs.

   c. *Content of 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 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 Board of Supervisors. It shall be 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 requirements of this subsection to post notice are not complied with:

1. *Prior to action by Board*. The Board of Supervisors may defer taking action 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 not invalid*. No action on an application shall be declared invalid solely because of the failure to post notice as required by this subsection.

3. *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.

C. Notice for revocation of a special use permit or special exception shall be as provided in Virginia Code § 15.2-2204, provided that the written notice provided by the Board of Supervisors 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, the Board of Supervisors may be given by first-class mail rather than by registered or certified mail.

D. Notice for special exceptions shall be provided as follows:

1. When public hearings are required under subsection 33.5d1, 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 .

2. For all other public hearings public notice shall be provide however denominated, in the applicable sections of this chapter.

E. A party's actual notice of, or active participation in, the proceedings for which the written notice provided by this section is required shall waive the right of that party to challenge the validity of the proceeding due to failure of the party to receive the written notice required by this section.

33.11 DEFFERING ACTION AND WITHDRAWING AN APPLICATION.

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

A. *To whom the request is to be sent*. 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 shall immediately inform the Clerk of the Board of the request.

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*.

a. When a request to defer is received the County shall not be obligated to accept the request for deferral. If the County accepts the request for deferral the application shall not be acted on by the Commission or the Board and all time periods for review shall be tolled. The Agent shall be responsible for determining if a request for deferral will be accepted.

b. When a 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.

D. *Limitations on deferral*. No application may be in a state of deferral beyond 32 months from the time the application was deemed complete under section 33.4(O). Except that 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.

E. *Reactivating a deferred application*. An applicant may reactivate an application by submitting new information or 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 shall not exceed the procedure for a new application and may include the requirement of a new submittal fee.

2. All time periods for action contained in section 33.4(O) shall be calculated from the date of reactivation of the application and not from the date of original submittal.

G. *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 without authorization by the Board of Supervisors.

H. *When an application is deemed withdrawn*.

1. An application shall be deemed to be voluntarily withdrawn if a request for deferral is accepted pursuant to this section and the applicant fails to reactivate the application within 6 months of the request for deferral.

2. An application shall be deemed to be voluntarily withdrawn if a request for deferral is accepted pursuant to this section and the applicant fails to reactivate the application

within 32 months from the time the application was deemed complete under section 33.4(O),