

CHAPTER 12: MAP AND TEXT AMENDMENTS

(Amended 11/03/08)

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Section 12.1 Purpose

The purpose of this chapter is to set forth procedures for amending the text of these regulations and the zoning classification of land as shown on the zoning map (rezoning). The purpose is not to relieve particular hardships, nor to confer special privileges or rights on any person, but only to make adjustments necessary in light of changed conditions or changes in public policy.

Section 12.2 Amendment Initiation

An amendment to the text of this ordinance or to the zoning map may be initiated by the Board of Commissioners, the Planning Board, the administrator, or any other interested person.

Section 12.3 Application Submittal

12.3.1 Applications for All Amendments

- A. An application form and fee shall be submitted by the applicant to the administrator. The application shall include a description of the proposed change. The application form and fee shall be waived for any amendment request submitted by a Currituck County official or agency acting on behalf of Currituck County. Completed applications shall be forwarded by the administrator to the Planning Board at their next regularly scheduled meeting.
- B. Any petition for rezoning property must be signed by the petitioner, who shall indicate the capacity in which he filed the petition. In the event the party filing the petition is someone filing the same on behalf of the owner, such party shall attach his authority to execute said petition on behalf of the owner to the petition.

12.3.2 Text Amendments

For text amendments, the application shall contain a reference to the specific section, subsection, paragraph or item proposed to be changed, as well as the wording of the proposed change, and the reasons therefore. Applications shall contain a statement regarding the consistency of the request with adopted county plans.

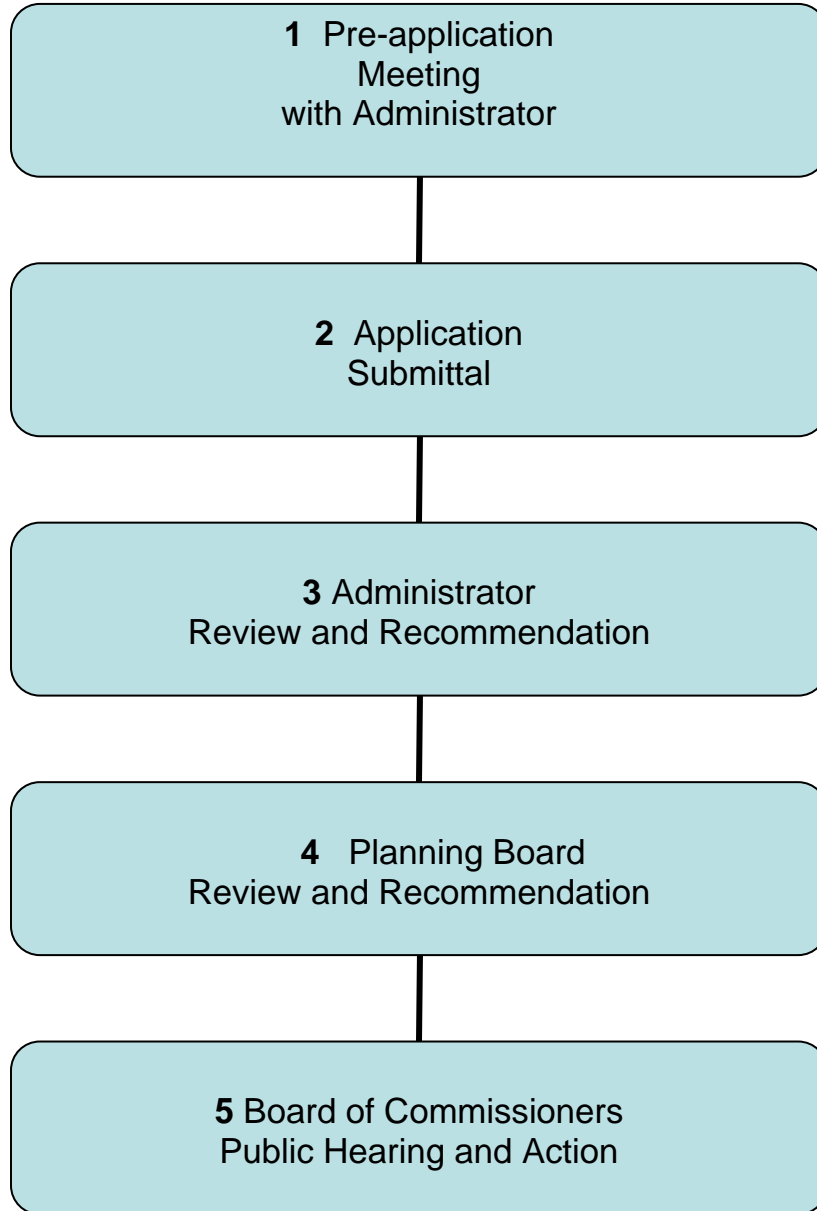
12.3.3 Map Amendments (Rezoning)

For all map amendments (rezonings), applications shall contain a statement regarding the consistency of the request with adopted county plans and the surrounding area.

Section 12.4 Text Amendment Process

12.4.1 Review Process

The following process shall be followed for any text amendment request:



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- A. Pre-application Meeting
The applicant shall meet with the administrator for a determination of whether the approval process authorized under this section can be utilized.
- B. Application Submittal
The applicant shall submit to the administrator a fee and complete application stating the current and requested zoning of the property. This shall not apply if the applicant is the county or an agent of the county.
- C. Administrator Review and Recommendation
The administrator shall present a written report with his findings concerning the applicant's request.
- D. Planning Board Review and Recommendation
 - 1. The Planning Board shall have two months from the initial referral of the request by the administrator to either recommend in favor of an amendment or in opposition to an amendment in writing by simple majority vote of those present and voting. If the Planning Board should fail to act on any proposed amendment within two months after it is referred to the board the request shall be forwarded to the Board of Commissioners without a recommendation. However, if the Planning Board is not prepared to make recommendations at the public hearing, it may request the board to delay final action on the amendment until such time as the Planning Board can present its recommendations. The Board of Commissioners is not bound by the recommendations, if any, of the Planning Board.
 - 2. The Planning Board shall include with its recommendation a written statement regarding the consistency of the request with adopted county plans and policies.
- E. Board of Commissioners Public Hearing and Action
 - 1. Upon receipt of a recommendation from the Planning Board, the Board of Commissioners shall conduct a legislative public hearing.
 - 2. Notice of public hearing shall be given once a week for two successive weeks in a newspaper having general circulation in the county. The notice shall be published for the first time not less than 10 days nor more than 25 days before the date fixed for the hearing. In computing this period, the date of publication shall not be counted but the date of the hearing shall be.
 - 3. All required notices shall include the following:
 - a. state the date, time, and place of the applicable meeting/public hearing;

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- b. summarize the nature and character of the proposal;
 - c. if the proposal involves a change in zoning district classification, reasonably identify the property whose classification would be affected by the amendment;
 - d. state the time and place or places within the county where the text, maps, and plans for the proposal may be examined;
 - e. the full text of the amendment can be obtained from the Planning Department; and,
 - f. state that substantial changes in the proposal may be made following the public hearing.
4. The administrator shall make every reasonable effort to comply with the notice provisions set forth in this section. However, it is not the board's intention that failure to comply with any of the notice provisions that are not statutorily required shall render any amendment invalid.
 5. At the conclusion of the public hearing on a proposed amendment, the board may proceed to vote on the proposed ordinance, defer action to a subsequent meeting, or take any other action consistent with its usual rules of procedure. The board is not required to take final action on a proposed amendment within any specific period of time, but it should proceed as expeditiously as practicable on petitions for amendments since inordinate delays can result in the petitioner incurring unnecessary costs.
 6. The Board of Commissioners shall include with its decision a statement regarding the consistency of the request with adopted county plans and policies.
 7. Upon approval of the text amendment, the administrator shall oversee the updating of this ordinance to reflect the approved changes.

12.4.2 General Provisions for Text Amendments

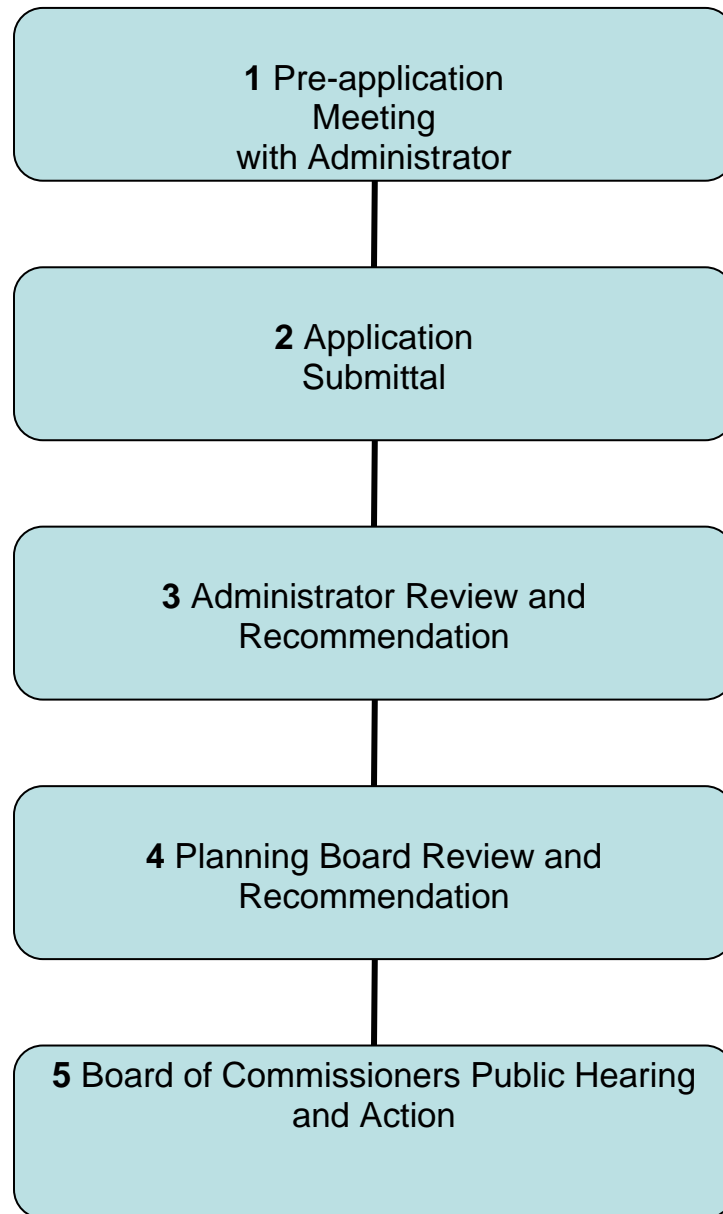
In deciding whether to adopt a proposed amendment to this ordinance, the central issue before the board is whether the proposed amendment advances the public health, safety, or welfare. All other issues are irrelevant, and all information related to other issues at the public hearing may be declared irrelevant by the chairman and excluded.

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Section 12.5 Map Amendment (Rezoning) Process

12.5.1 Review Process (PB 07-76, 12/17/07); (PB 10-22, 8/2/10)

The following process shall be followed for any general or conditional district rezoning request.



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- A. Pre-application Meeting
The applicant shall meet with the administrator for a determination of whether the approval process authorized under this section can be utilized.
- B. Application Submittal
The applicant shall submit to the administrator a fee and complete application signed and authorized by the current property owner(s) stating the current and requested zoning of the property. This shall not apply if the applicant is the county or an agent of the county.
- C. Administrator Review and Recommendation
The administrator shall present a written report with his findings concerning the applicant's request.
- D. Planning Board Review and Recommendation
 - 1. The planning staff shall mail a notice to all adjacent property owners within 200 feet of the subject property at least 10, but not more than 25, days prior to the Planning Board meeting at which the request is to be heard.
 - 2. The Planning Board shall have two months from the initial referral of the request by the administrator to either recommend in favor of an amendment or in opposition to an amendment in writing by simple majority vote of those present and voting. If the Planning Board should fail to act on any proposed amendment within two months after it is referred to the board the request shall be forwarded to the Board of Commissioners without a recommendation. However, if the Planning Board is not prepared to make recommendations at the public hearing, it may request the board to delay final action on the amendment until such time as the Planning Board can present its recommendations. The Board of Commissioners is not bound by the recommendations, if any, of the Planning Board.
 - 2. The Planning Board shall include with its recommendation a written statement regarding the consistency of the request with adopted county plans and policies.
- E. Board of Commissioners Public Hearing and Action
 - 1. Upon receipt of a recommendation from the Planning Board, the Board of Commissioners shall conduct a legislative public hearing.
 - 2. Notice of the public hearing shall be given as follows:
 - a. The planning staff shall mail a notice to all property owners within 200 feet of the extreme limits of the subject site as their names appear in the county tax record at least 10 days, but not more than 25 days, prior to

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- the hearing. The notice shall include the date, time, and place of the Board of Commissioners hearing and the nature of the application.
- b. The department shall provide notice to the general public once a week for two successive weeks in a newspaper having general circulation in the county. The notice shall be published for the first time not less than 10 days nor more than 25 days before the date fixed for the hearing. In computing this period, the date of publication shall not be counted, but the date of the hearing shall be counted.
 - c. The department will also post a notice outlining the date, time, place, and nature of the hearing in a conspicuous location on the property.
3. All required notices shall include the following
 - a. state the date, time, and place of the applicable meeting/public hearing;
 - b. summarize the nature and character of the proposal;
 - c. if the proposal involves a change in zoning district classification, reasonably identify the property whose classification would be affected by the amendment;
 - d. state the time and place or places within the county where the tax, map, and plans for the proposal may be examined;
 - e. the full text of the amendment can be obtained from the Planning Department; and,
 - f. state that substantial changes in the proposal may be made following the public hearing.
 4. In instances where an applicant elects to postpone consideration of a proposal after required notification has been accomplished, the county shall be responsible for resending notice to adjacent property owners with the new meeting and/or hearing date as required above. The applicant shall be responsible for any applicable fee to the county for re-advertisement.
 5. The administrator shall make every reasonable effort to comply with the notice provisions set forth in this section. However, it is not the board's intention that failure to comply with any of the notice provisions that are not statutorily required shall render any decision invalid.
 6. The Board of Commissioners shall include with its decision a statement regarding the consistency of the request with adopted county plans and policies and the surrounding area.

7. Upon approval of the map amendment, the administrator shall oversee the updating of the zoning map to reflect the approved changes.

12.5.2 General Provisions for Standard Rezoning

- A. When considering proposed standard map amendments (rezonings), the board shall not rely upon any representations made by the petitioner that, if the change is granted, the rezoned property will be used for only one of the possible range of uses permitted in the requested classification. Rather, the board shall consider whether the entire range of permitted uses in the requested classification is more appropriate than the range of uses in the existing classification. The board shall not regard as controlling any advantages or disadvantages to the individual requesting the change, but shall consider the impact of the proposed change on the public at large.
- B. Areas zoned for non-residential purposes along the county's major arterials have been carefully selected, taking into account existing needs and uses. Additional areas along these major arterials shall not be rezoned to non-residential districts except upon an extraordinary showing of public need or demand and then only to expand an adjacent zoning district of the same classification as the district requested.

12.5.3 General Provisions for Conditional Zoning Districts (PB 07-76, 12/17/07)

- A. Conditional zoning districts are zoning districts in which the development and use of the property is subject to standards, regulations, or other conditions imposed as part of the legislative decision creating the district and applying it to the particular property.
- B. A conditional zoning district allows particular uses to be established in accordance with specific standards and conditions pertaining to each individual process.
- C. See Chapter 2 for detailed provisions for conditional zoning districts.

Section 12.6 Resubmission of Request

- A. Unless the Board of Commissioners find that there have been substantial changes in conditions or circumstances bearing on the application, the county shall not accept for consideration a petition for a text or map amendment if:
 1. Within one year prior to the date the petition is submitted, the Board of Commissioners has denied a previous rezoning request for the same property or has approved a rezoning to a more restrictive classification than requested,

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or the applicant has withdrawn a previous request after consideration of such request by the Planning Board; or,

2. Within one year prior to the date the petition is submitted, the Board of Commissioners has denied a substantially similar request for a text amendment.
- B. The administrator may allow re-submission of such petition within said one year period if he determines that, since the date of action on the prior petition:
1. There has been a significant change in the zoning district classification of an adjacent piece of property;
 2. The Board of Commissioners has adopted a plan that changes public policy regarding how the property affected by the amendment should be developed;
 3. Construction or expansion of a road, water line, sewer line, or other such facilities has occurred to serve the property and can comfortably accommodate the intensity of development allowed under the proposed classification; or,
 4. There has been some other extraordinary change in conditions or circumstances, outside the control of the petitioner, which justifies waiver of the one-year restriction on a new petition. This, however, shall not include a change in the ownership of the subject property.