

Article 19 Amendments to Official Zoning Map and Ordinances

Section 19.1 Purpose

The Official Zoning Map may be amended from time to time in accordance with the procedures and standards set forth in this Section. The purpose of this Section is not to relieve particular hardships, not to confer special privileges or rights on any person, but only to make adjustments to the Official Zoning Map that are necessary in light of changed conditions or changes in public policy or that are necessary to advance the general welfare of the County. Zoning text amendments may be necessary to further the County land use policies and to keep pace with current development trends.

Section 19.2 Initiation Map Amendment.

An amendment to the Official Zoning Map may be initiated:

- (a) By application of any person owning the property proposed for change on the Official Zoning Map, or by written authorization by the owner for an agent to act on the owner's behalf
- (b) By a motion of the Planning and Zoning Commission.
- (c) By a motion of the County Commission.

Section 19.3 Initiation Text Amendment

An amendment to the text of the Zoning Ordinances may be initiated:

- (a) By a motion of the County Commission.
- (b) By a motion of the Planning and Zoning Commission.

Section 19.4 Planning Director Preparation

The Planning Director shall prepare and file the applications initiated by the Planning and Zoning Commission and the County Commission.

Section 19.5 Staff Review

Within a reasonable time after the receipt of an application, the Planning Director shall deliver to the Planning and Zoning Commission and the County Commission a written report summarizing the facts of the case, including all relevant documents and incorporating or summarizing the comments and recommendations of the Planning and Zoning Department, and schedule a date

for a public hearing. The County Commission shall be furnished with minutes, recommendations and other relevant information from the Planning Commission.

Section 19.6 Factors for Reviewing Proposed Amendments

In deciding whether to recommend approval of a proposed amendment, or in deciding whether to adopt a proposed amendment, the Planning Commission and County Commission shall consider whether the proposed amendments is consistent with the following factors:

- (a) Is the requested change compatible with the existing development pattern and the zoning of nearby properties?
- (b) Has there been a change in the conditions upon which the original zoning designation was based? Has land uses or conditions changed since the zoning was established?
- (c) Does proposed zoning better conform to the Master Plan?
- (d) Will the proposed change conflict with existing or planned public improvements?
- (e) Will the proposed change adversely affect traffic patterns or congestion?
- (f) Is the proposed amendment consistent with the development patterns in the area and appropriate for orderly development of the community? The cost of land or other economic considerations pertaining to the applicant shall not be a consideration in reviewing the request
- (g) Is the proposed amendment the logical expansion of adjacent zoning districts?
- (h) Is the timing of the request appropriate given the development trends in the area?
- (i) Will the proposed change adversely impact the environmental conditions of the vicinity or the historic resources of the County?
- (j) Will the proposed change adversely affect the health, safety and welfare of the County and the vicinity?
- (k) Other matters which may be appropriate.

Section 19.7 More Restrictive Rezoning

The County Commission may not approve a rezoning other than the rezoning published in the newspaper unless the change is more restrictive than the proposed rezoning published.

Section 19.8 Examination and Copying of Application and Other Documents

At any time upon reasonable request, and under the supervision of the Planning Director or his/her designee, any person may examine an application filed. Copies of such materials shall be made upon payment of the appropriate fee as determined by County Commission policy.

Section 19.9 Revocations of Approvals

Applicants shall be responsible for ensuring that all development proceeds in accordance with terms and conditions of any approval issued to the applicant. A determination by the Planning Director that the terms and conditions of the approval have been violated shall subject the approval to be revoked.

Section 19.10 Reliance on Information Presented by Applicant

The County staff shall have the right to rely on the accuracy of statements, documents and all other information presented to them by applicant, their attorney or agent, in review of an application issued under these ordinances.

Section 19.11 Presentation or Submittal of Incorrect Information

In the event that an applicant, their attorney or agent submits or presents false or incorrect information, whether or not such information is presented fraudulently or deceitfully to the staff, Planning and Zoning Commission, or County Commission concerning a material fact or consideration relating to an application for a rezoning, conditional use, or other type of approval issued under these ordinances, the following action may be taken:

When such false or incorrect information was a material fact or consideration in approving an application for rezoning, amendment, modification, or repeal, the Planning Director shall notify the applicant in writing of the false or incorrect information given and all actions necessary to resolve those problems resulting from the false or incorrect information given. If the problems cannot be resolved within ten (10) days or such other time period stated in notification, the Planning Commission or County Commission shall hold a public hearing, of which the applicant shall be notified with at least seven (7) days notice by certified mail, return receipt requested. Upon the conclusion of the public hearing the Planning Commission or County Commission may amend, revoke, or void approval. Prior to such action, the Commission must find that the applicant, his agent, or

attorney, presented fraudulently or deceitfully, to the Board of Adjustment, Planning Commission, or County Commission concerning a material fact or consideration relating to an application or an applicant, whether or not such information is presented fraudulently or deceitfully to the staff, Board of Adjustment, Planning Commission, or County Commission concerning a material fact or consideration relating to an application. Any work performed by or at the request of the applicant on the subject property shall be at the risk of the applicant. If the Planning Commission or County Commission does amend, revoke, or void an application approval, the Planning Director shall void any type of approval or permit issued.

Section 19.12 Withdrawal of Applications

Applications for rezoning, Commission Site Plan Approval and variance requests must be withdrawn by the applicant or authorized agent in the manner set forth as follows:

(a) An applicant may withdraw an application by filing written notice of the withdrawal with the Planning Director seven (7) days prior to the public hearing. If the application will be before the County Commission a written notice shall be filed with the County Commission Chairman seven (7) days prior to the public hearing.

(b) When an applicant wishes to withdraw an application less than seven (7) days prior to the public hearing, it shall be at the discretion of the governing body to either grant the withdrawal or to hear the application as submitted.

Section 19.13 Concurrent Applications

An application for rezoning of land, Commission Site Plan Approval or variance on all or part of the same land may be made concurrently. In such cases, the effective date of the Commission Site Plan Approval or variance shall be held in abeyance until action has been taken by the County Commission on the application for rezoning of such land.

Section 19.14 Limitations on Rezoning of Land

19.14.1 Whenever the County Commission has amended the zoning map and changed a zoning classification of land, another application shall not then be considered for rezoning of any part or all of the same land for a period of one (1) year from the effective date of such amendment.

19.14.2 Whenever the County Commission has denied an application for rezoning, no further application shall be filed for the same land for a period of one (1) year from the date of such action. In the event that two (2) or more

applications for rezoning of any part or all of the same land has been denied, no further applications shall be filed for a period of two (2) years from the date of such action denying the last application filed.

Section 19.15 Application Fee

19.15.1 Application fees shall be determined based on the current fee schedule adopted by the County Commission.

19.15.2 Fees shall be nonrefundable irrespective of the final action on the application. No fee shall be refunded after the submittal deadline.

Section 19.16 Public Notice and Hearings

19.16.1 Any proposed rezoning, amendment, supplement, modification, or repeal shall be submitted to the Planning Commission for its consideration and recommendation to the County Commission.

19.16.2 An application for rezoning must be submitted to the Planning and Zoning Department. The application must be on official County forms and must be accompanied by data, maps, and plans which are adequate to support the application. The application shall be heard by the Planning Commission at its next regular meeting after receipt of a correctly completed application. All dates and times shall be determined by the adopted meeting schedule of the Planning and Zoning Commission.

19.16.3 Before acting on any proposed rezoning, amendment, supplement, modification or repeal, a public hearing shall be held by the Planning Commission with proper legal notice published in a newspaper of general circulation in the County at least two weeks prior to the hearing, and in the case of a rezoning, notice by certified mail at least 5 days prior to the hearing, to the applicant and to all adjacent property owners as their names appear in the County tax records.

19.16.4 A conspicuously located sign, indicating the proposed amendment, shall be posted on the subject property no less than three weeks prior to the date of the hearing. The case number and contact information shall be listed.

19.16.5 The Baldwin County Commission shall fix a reasonable time for consideration of a proposed rezoning, amendment, supplement, modification, or repeal and give public notice thereof. Notice of said action shall be published in a newspaper in a newspaper of general circulation, in the County, in the legal notices for three consecutive weeks prior to the public hearing and one time in the regular section of the newspaper in the form of a ¼ page display advertisement at least 5 days prior to the public hearing. The public notice shall state that the proposed rezoning, amendment, supplement, modification, or

repeal will be considered by the County Commission pursuant to Act No. 91-719 as amended.

19.16.6 *Copies available.* A copy of the proposed rezoning, amendment, supplement, modification, or repeal shall be made available for public inspection at the nearest County Courthouse or satellite County Courthouse, which locations will be included in the notice. The notice shall also state the time, place, and location where persons may be heard in opposition to, or in favor of such proposed rezoning, amendment, supplement, modification, or repeal. No such amendment, supplement, modification, or repeal shall become effective until adopted by the Baldwin County Commission after a public hearing where all citizens and parties in interest shall have an opportunity to be heard.

19.16.7 The County Commission shall render a final decision on the proposed rezoning, amendment, supplement, modification, or repeal at the conclusion of the public hearing or within 60 days from the date of the public hearing if it is determined that action must be deferred in order to allow for additional input and review.